United States Court of Appeals

for the Second Circuit

APPELLANT'S BRIEF & APPENDIX

75-1197

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P/S

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

Docket No. 75-1197

UNITED STATES OF AMERICA,

Appellee,

-v-

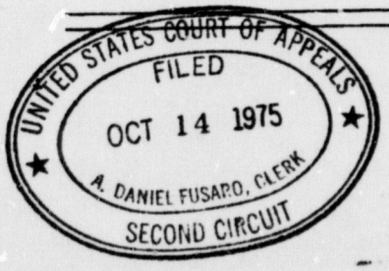
EDGAR REYNOLDS,

Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

BRIEF and appendix FOR THE APPELLANT REYNOLDS



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REYNOLDS

2

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TABLE OF CONTENTS

Table of Cases

Table of Statutes

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BRIEF FOR THE APPELLANT

Preliminary Statement

Edgar M. Reynolds appeals from a judgment of conviction entered on May 15, 1975 in the United States District Court for the Southern District of New York, after a two-month trial before the Honorable Constance Baker Motley, United States District Judge and a jury.

Indictment 74 Cr. 573, filed on June 4, 1974, contained twenty counts and Reynolds was named in six of those counts namely, Count One and Counts Fourteen through Eighteen inclusive.

Count One charged Reynolds with engaging in a conspiracy to violate the provisions of the Securities Act of 1933, (Title 15, U.S.C. Sections 77e, 77q and 77x); the Securities and Exchange Act of 1934 (Title 15, U.S.C. Sections 78j and 78ff); Rule 10 b-5 of the Rules and Regulations of the Securities and Exchange Commission; and Sections 1341 and 1343 of Title 18, United States Code; all in violation of Title 18, U.S.C. Section 371.

Count Fourteen charged Reynolds with the substantive crime of using the means and instruments of transportation in interstate commerce for the purpose of sale and delivery after sale of common stock as to which there was no registration then in effect, in violation of Title 15 U.S.C. Section 77e and 77x, and Title 18 U.S.C. Section 2.

Counts Fifteen through Eighteen inclusive charged Reynolds with using the mails to sell unregistered securities in violation of Title 15 U.S.C. Section 77e and Title 18 U.S.C. Section 2.

The trial commenced on January 22, 1975 and on March 23, 1975, the jury returned a guilty verdict as to Reynolds on Count Fourteen and not guilty verdicts as to Reynolds on the remaining counts in which he was named.

On May 15, 1975, Judge Motley sentenced Reynolds to three years, but stayed the execution of sentence and imposed a three-year probationary period.

Statement of Facts

A. The Government's Case

The Government's case against Reynolds consisted of the testimony of ten witnesses and a summary of their testimony is set forth here.

1. Richard Stern

Richard Stern, an unindicted co-conspirator, testified that in 1969 he was the President and the defendant Jerry Haskell was the Secretary-Treasurer of Stern-Haskell, Inc., a wholesale used car business located in the Bronx and employing seven or eight salaried employees and eight buyers, who worked on commissions (Tr.* 2024-30). Stern and Haskell had previously discussed the possibility of "going public" to obtain financing to expand their business into related areas (Tr. 2030-31), but had decided against doing so because of the cost involved (Tr. 2035). Then in January 1969, Haskell met some people in Florida who suggested an inexpensive method of "going public", via the "spin off" route (Tr. 2038-39). As explained to Haskell, this method allowed public

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* "Tr." refers to the Trial transcript.

trading in the "spun-off" shares to take place without the necessity of filing a formal registration statement, and without incurring the attendant costs (Tr. 2041, 2045). Additionally, Stern-Haskell could later obtain the financing it desired by the private placement of its common stock (Tr. 2044).

Discussions took place between Stern and Haskell, and Stein, Feiffer, Rubinson and Chester (referred to as "the National Ventures People*) (Tr. 2047-50), and a contract was eventually drawn up between Stern-Haskell, Inc. and National Ventures, Inc., the spin-off vehicle (G.X.** 106). The contract provided for the sale to National Ventures of 20% of the outstanding stock in Stern-Haskell, or 200,000 shares, for $5,000. National Ventures was to distribute the 200,000 shares to its shareholders on a one for two basis. Each party to the contract was to obtain a legal opinion that the transaction did not violate any corporate, state or Federal rule or regulation, and Stern-Haskell was to pay all the costs of the transaction, not to exceed $7,500 (G.X. 106).

Stern and Haskell were referred to Irwin Germaise, a former S.E.C. attorney, knowledgable in the field of securities regulation, and he provided them with a fifteen page opinion letter addressed to William K. Chester, dated February 27, 1969

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* Reynolds' name was never mentioned in any of these discussions and Stern never met Reynolds. (Tr. 2219).

** "G.X." refers to Government Exhibit.

(G.X. 108) (Tr. 2070-72). Suffice it to say that Stern did not fully understand the rather lengthy and complex opinion contained in the letter, but he left Germaise's office confident that the proposed transaction was legal and effective to accomplish his purpose (Tr. 2079, 2257-66).

The transaction was consummated and Stern-Haskell began trading on April 1, 1969 at a price of $1.00* (Tr. 2105).

2. Sten Nordin

Sten Nordin was a former part-time employee of the defendant Chester, a Miami attorney (Tr. 265, 799, 804-5). In 1968 Chester set Nordin up in business under the name Stock Transfer Agency to handle stock transfers for Allen Electronics, a corporation of which the defendant Rubinson was a principal and Chester was general counsel (Tr. 269-72). The Stock Transfer Agency subsequently handled the stock transfers of Toy King Inc., National Ventures, Inc. and Stern-Haskell, Inc.

In September 1968, Nordin was present at a conversation in which Reynolds said he had control or an option of control over the Toy King corporation. Reynolds said he could bring the corporation to Chester and Chester could acquire the assets of Toy King and develop it into another corporation. The plan was for Chester to place assets, primarily South American land,

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* The question of whether the stock price was manipulated, and if so, by whom, is not dealt with in this brief, since Mr. Reynolds was acquitted on Count One, which was the only count in which he was alleged to have participated in that part of the overall scheme.

in the corporation, form a new company and change the name to National Ventures (Tr. 566-70). In October 1968, Chester informed Nordin that he had decided to go ahead with the National Ventures deal (Tr. 289) and Chester became President and Nordin Treasurer of National Ventures, and there were no other officers to his recollection (Tr. 577).

It was Nordin's understanding that Reynolds was to receive a quantity of stock in National Ventures in return for bringing the corporation to Chester, but Nordin could not recall the exact amount (Tr. 572-73).

Nordin was also present at a conversation between Chester and Reynolds which preceded any mention of the name "Toy King" by three or four weeks. In this conversation Chester stated that he had been looking for a "shell" corporation into which he could place some South American land as an asset. Chester was unable to obtain a "shell" because "they wanted $25,000 to $35,000 for a shell", Reynolds said he had knowledge of a "shell" and would see if it was available (Tr. 753-54).

On cross-examination, Nordin denied his previous testimony that Reynolds was to get National Ventures stock in return for bringing the "shell" to Chester. He stated he "was not present where any time Mr. Reynolds was told 'you are going to get so many shares here,' or 'Mr. Chester was going to give

any number of shares for this or that." He explained that his testimony was only that "the transfer book reflects that Mr. Reynolds had so many shares." (Tr. 1047) When shown the transfer book (G.X. 15 p. 1) which he had previously identified as the National Ventures stock transfer record, Nordin admitted that rather than receiving stock, Reynolds had transferred 123,000 shares of Toy King - National Ventures stock he formerly owned to Marinus Laboratories, Inc., on November 1, 1968, the date Toy King's name was changed to National Ventures. Nordin had "understood" that Reynolds owned Marinus Laboratories, but had no factual basis for that understanding.*

In addition to admitting that Reynolds did not personally own any National Ventures stock after November 1, 1968, Nordin also admitted that Reynolds did not subsequently become the owner of any National Ventures stock. When shown the stock ledger for National Ventures (G.X. 17) Nordin stated that under the name Edgar Reynolds there were only three entries, each showing that Edgar Reynolds held 48 shares as trustee for each of three minors (Tr. 1047-1063). Nordin then went on to mis-identify Foster Reynolds as a brother of the defendant Edgar Reynolds; Garland R. Reynolds and/or Margaret J. Reynolds as

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* In fact, Charles Cairnes, a principal in Marinus Laboratories testified for the defendant, Reynolds, and said Reynolds owned no stock in Marinus Laboratories until 1970, and only received that stock because the corporation was unable to pay his salary (Tr. 6205-08; 6252).

a "sister or wife"; Hilda S. Reynolds, also Edgar's wife; and Milton M. Reynolds, a brother. The only Reynolds not identified by Nordin was Jacqueline G. Reynolds, the defendant's wife (Tr. 1063-63).

3. Saul Weitzman

In 1969 Saul Weitzman was a Miami businessman who was attempting to take his company, Blank Leasing, Inc., public, with the assistance of Sidney Stein and others (Tr. 1428-31). He allowed his office to be used by Stein on occasion and he was present in approximately December 1968, or January 1969 when Jerry Haskell met with Stein, Chester, Rubinson, Albert Feiffer, an accountant named Hochen, and an attorney named Leo Silber to discuss what sounded like a merger to Weitzman* (Tr. 1451-56). Stein or Rubinson designated Feiffer, Silber, Weitzman and Hochen as nominees (Tr. 1456-58), and they each purchased approximately 37,500 shares of National Ventures stock for a nominal consideration to facilitate the distribution of Stern-Haskell stock to them (Tr. 1459-61). Thereafter Weitzman received and endorsed over to Stein, Feiffer and Rubinson some 18,775 shares of Stern-Haskell stock which he had received as a dividend from National Ventures (Tr. 1469-1473). In exchange for his services as a nominee, Weitzman received 2,000 shares of Stern-Haskell.

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* Reynolds was not present at this meeting and Weitzman never met him.

Weitzman also identified a yellow page of handwriting dated May 3, 1969 containing what purports to be an offer by Investment Bank Shares to purchase from Marinus Laboratories 10,000 shares of Stern-Haskell stock at $1.50 per share (G.X. 61). Weitzman testified that Rubinson left this in his office and he knew nothing else about it (Tr. 1599-1604). It was later stipulated that this document was written by the defendant Chester (Tr. 5985).

4. Larry Hochen

Larry Hochen is an accountant in the Miami area who had done work for Norman Rubinson and for Saul Weitzman (Tr. 2542-47). He testified that in the Fall of 1968, Chester told him and that he and an associate (Mr. Reynolds) had obtained control of a public company registered under the Florida Securities Laws, called "Toy King", and they intended to revive it, put assets into it, increase its stock and make a profit for the corporation and the shareholders (Tr. 2555-57). He first heard of Stern-Haskell at a meeting at Blank Leasing in October 1968 when he examined its "financials" and gave his opinion that it could become very profitable (Tr. 2571-75).

Although he insisted he was not a nominee for anyone, Hochen purchased 37,500 shares of National Ventures for $375.00

and gave Chester an option to repurchase the stock (Tr. 2581-82). He subsequently received 18,775 shares of Stern-Haskell as a dividend and sold 16,000 of them to the defendant Feiffer for $187.50 (Tr. 2599).

Hochen testified that Reynolds was not present at the October 1968 meetings where Stern-Haskell was first discussed (Tr. 2572) and confirmed Weitzman's testimony that Reynolds was not present at a second meeting which he recalled occurred on February 8, 1969, when Stern-Haskell and National Ventures were discussed (Tr. 2578).

5. Bosh Stack

Bosh Stack testified that he represented Mobile Home Ventures Inc., which entered into an agreement with Chester on behalf of National Ventures, similar to the Stern-Haskell transaction. Although this was offered as a similar act, the stock of Mobile Home Ventures was never traded and the transaction was reversed because of Mobile Home Ventures inability to obtain certified financial statements (Tr. 2960). Stack's only mention of Reynolds was to state that he was in Chester's office twice when the transaction was discussed in its broadest terms (Tr. 2961-62), but he made it clear that Reynolds did not represent National Ventures, only Chester did (Tr. 3054).

6. Art Disner

Art Disner was the owner of Diston Industries Inc., the third stock distributed to shareholders of National Ventures on a similar basis as Stern-Haskell had been. He testified that he met Edgar Reynolds for the first time after signing the agreement to sell 200,000 shares of Diston stock to National Ventures. Reynolds was introduced to him as a financial consultant and Reynolds assisted Diston Industries by showing how a mini prospectus should be prepared. Reynolds did not prepare the prospectus but merely gave advice on what it should contain and that was his only role in the Diston transaction (Tr. 3400-01).

7. Nick Torelli

Nick Torelli was a stock broker in Miami in 1969. Reynolds was not a customer (Tr. 3296) but Torelli knew him as a financial consultant to Marinus Laboratories, Inc. Ironically, Arthur Clark, Torelli's attorney, was a principal in a company named Clarco, which had "spun-off" Marinus. Torelli, as a shareholder in Clarco, became a shareholder in Marinus and so knew Reynolds (Tr. 3301). Torelli's only other mention of Reynolds was that Reynolds name was given by a customer as the person who recommended the customer to Torelli (Tr. 3297). That customer was Chester's ex-wife Fran Roberts (Tr. 3283).

8. Sidney Stein

Stein's testimony at the trial was that Chester, who had been an attorney for several public companies in Miami, had explored the legality of the proposed acquisition of Stern-Haskell stock by National Ventures and a subsequent spin-off, and Chester thought it was legal. Stein himself thought it was a good idea because it avoided the expense of a public offering. He felt it would be better to merge the two companies or have public trading of National Ventures prior to the acquisition (Tr. 3467-71), but was of the opinion that the contemplated transaction was "marginal but legal." (Tr. 3965, 3967 and 73). Stein's opinion of the legality of the transaction was unaffected by the Germaise opinion letter.* (G.X. 108).

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* Much of Stein's testimony, not summarized here, related to the allegations of manipulation of the price of Stern-Haskell stock by Stein and others in New York. Since there was no evidence offered at the trial which implicated Reynolds in that aspect of the conspiracy, and since Reynolds was acquitted on the overall conspiracy charged in Count One, it would serve no useful purpose to review the testimony in detail, but briefly, Stein testified that he, Feiffer and Rubinson collected the Stern-Haskell stock which had been distributed to their nominees, Weitzman, Hochen and Feiffer, and placed the stock in accounts which they had opened for Feiffer with three New York brokerage firms. Stein touted the stock and paid Philip Kaye to do likewise. Walter Wax, a stockbroker who was acquitted at trial, was to sell Stern-Haskell to his customers, and Larry Levine was to fill the orders after purchasing the stock from one of the three "Feiffer accounts." Wax, Levine and Kaye allegedly split cash payments made to Kaye by Stein.

The only part of Stein's testimony which related to Reynolds, concerned a sale of 18,750 shares of Stern-Haskell stock in Brooklyn on June 6, 1969. As Stein related it, Larry Levine, a co-defendant, was making a market in Stern-Haskell stock through the brokerage firm of Lockwood & Co. Levine allegedly complained to Stein about sales of the stock in the Miami area, which Levine had to absorb (Tr. 3572-78). Stein claims he told Rubinson to check into this, and Rubinson reported back that Chester and "his friends" had been selling stock. Rubinson also reported that Chester had a large block of stock he wanted to sell (Tr. 3579). Stein then arranged for Chester to come to New York to sell the stock (Tr. 3580-86). He also arranged for two gentlemen, (Spitzer and Gluck), who served as financial advisers to Rabbi Yehuda Weiss of B'Noth Jerusalem, to recommend to the Rabbi that he buy the stock (Tr. 3588-98). According to Stein, the arrangements were for B'Noth Jerusalem to pay $1.50 per share and he and others would guarantee there would be no loss on the stock (Tr. 3598). When Chester arrived in New York, he had another man with him who had an interest in the stock. Chester was given the address of B'Noth Jerusalem in Brooklyn and he later told Stein he had gone there and had been paid (Tr. 3599-3602).

Stein did not identify Reynolds as the man with Chester, but stated the man was either Reynolds or McKay (Tr. 3991). He also stated that he understood that the stock in question was Chester's stock (Tr. 3990), but he did not really know who owned it (Tr. 3996). In addition to guaranteeing B'Noth Jerusalem against loss, Stein, as in the past, was to share with B'Noth Jerusalem any profits in excess of 25% (Tr. 4292). This was not the first time Stein had used B'Noth Jerusalem to "park" stock, but apparently the Rabbi, who did not speak English very well, did not realize what his role was. He merely did what Gluck and Spitzer suggested (Tr. 3589-3596).

9. Rabbi Weiss

Rabbi Weiss testified that the Stern-Haskell stock he bought on June 6, 1969 was merely one of several purchases of that and other stocks he made on behalf of B'Noth Jerusalem on the recommendation of Sidney Stein (Tr. 4168, 4878 and 4882). He identified his signature on a check made out to Edgar Reynolds in the amount of $28, 125.00 (G.X. 215A, Tr. 4872). He could not identify Chester or Reynolds* (Tr. 4873). In fact when

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* During the Rabbi's testimony, Reynolds stipulated that he was present at the Rabbi's office on June 6, 1969 and that his endorsement appears on the check (Tr. 4873).

Reynolds was asked to stand for identification purposes, the Rabbi said he thought the man standing might be Stein (Tr. 4900). He testified that he probably received the stock certificate (Tr. 4905), but did not recall doing so (Tr. 4905). Contrary to Stein's testimony, the Rabbi said he did not remember giving any money to Stein in the past and he had no such arrangement (Tr. 4880, 4908). He could not recall whether the $28,125 check was cashed at the time of the sale, whether he had visited Stein on the day of the sale, whether he knew two men were coming to see him, who introduced him to the men who sold the stock, what language the sellers spoke, and where the sale took place (Tr. 4873, 4903-07).

The Rabbi identified a deposit slip (G.X. 215B) reflecting a deposit of the $28,125 check into the B'Noth Jerusalem account on June 9, 1969 (Tr. 4873-74).

10. Roy T. Hawk

Roy Hawk was a stockbroker for A. G. Edwards in Melbourne, Florida in 1969. Both Edgar Reynolds and his mother and father, Hilda and Milton Reynolds, had accounts with Mr. Hawk. On May 19, 1969, Hawk received 1,200 shares of Stern-Haskell for Edgar Reynolds' account,* and on May 25, 1969

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* The Stern-Haskell transfer records indicate that Reynolds acquired these shares on May 8, 1969 from Edwin French (G.X. 15 p. 120 and G.X. 27).

he sold 300 shares and 200 shares at $3.50 per share for Edgar Reynolds' account. On May 27, 1969, Hawk sold an additional 500 shares and 200 shares at $3.25 per share for Reynolds' account. A check was issued to Reynolds for the proceeds of these sales in the amount of $3,892.80.

Hawk testified that he had been a shareholder in Kels 5, 10 and 25 Cents Stores Inc., since 1960, and he testified that there had been public trading in that stock. He later received shares in Toy King, as a distribution from Kels, and was subsequently informed of the name change to National Ventures. Thereafter, he received shares in Stern-Haskell as a stock distribution from National Ventures and sold his Stern-Haskell stock at approximately the same time as Reynolds did (Tr. 3109-23).

The Documents

The books and records of Stock Transfer Agency show that on November 1, 1968, Edgar Reynolds had transferred 24,642* shares of National Ventures (formerly Toy King) stock to Marinus Laboratories, (G.X. 15 p. 1) and on that date the only shares remaining in his name were 144 shares which he held as trustee

* The 24,642 shares of National Ventures had originally been 123,210 shares of Toy King which were reverse split at a ratio of 5 to 1 at the time the name of the corporation was changed.

for his sons, Dennis and Richard, and for his daughter, Jacqueline. Reynolds' wife Jacqueline also held 48 shares (G.X. 17). None of these shares were sold. Reynolds' mother and father, Milton and Hilda Reynolds, held 1,300 shares and Milton sold approximately 1,100 or 1,400 shares (G.X. 255).

On May 8, 1969, Reynolds acquired 1,200 shares of Stern-Haskell from Ed French and some of those shares were sold on May 19, 1969 (500 shares at $3.50) and May 20, 1969 (300 shares at $3.50) (G.X. 255)*.

On May 16, 1969, the records show that Reynolds acquired 18,750 shares of Stern-Haskell from Andy McKay (G.X. 27). These are the shares which were sold to B'Noth Jerusalem in New York on June 6, 1969 for which Reynolds was convicted in Count Fourteen.

The Defendant's Case

The defendant Reynolds called only one witness, Charles Cairnes, who testified that he was the President and principal stockholder of Marinus Laboratories, a company which Nordin had described as Reynolds' company. Cairnes testified that Reynolds was employed as the Secretary-Treasurer, the

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* The discrepancies between G.X. 255 and the testimony of Roy T. Hawk, Reynolds' broker, are probably due to the fact that G.X. 255 was prepared primarily from the records of Lockwood & Co., and the source of the stock (i.e. the particular selling investor) was not always ascertainable. Thus, Hawk's testimony is more accurate.

financial man of Marinus, and held no stock in the corporation until March 1970 and only received that stock (about 7% of the outstanding shares) in lieu of his salary which the corporation could not pay (Tr. 6205-08, 6252). Cairnes also stated that he had loaned Reynolds upwards of $5,000 sometime prior to 1968, and Reynolds, who had been a principal in Toy King, gave Cairnes stock in Toy King and a note. Cairnes later placed the Toy King stock into Marinus and that is how Marinus came to have some 20,000 shares of National Ventures after the reverse split and name change (Tr. 6210-12). Cairnes stated that Marinus later received the Stern-Haskell stock as a dividend and sold 10,000 shares and he identified the letters (Reynolds X. K) which effected the sale of the Stern-Haskell through a New York bank and applied the $15,000 proceeds against a note held by a bank.* Reynolds did not receive a penny from the sale of this Stern-Haskell stock (Tr. 6220) and his bank statements for the relevant period show no deposits which could be related to the sale (Reynolds X. L and M). Cairnes also testified that Reynolds received $5,385.10 in salary from Marinus in 1969 (Tr. 6221).

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* The loan had actually been made to Infab, a corporation which Marinus was negotiating to purchase and which Marinus did eventually purchase (Reynolds X. K and O) (Tr. 6218-20).

All the facts surrounding the acquisition and sale of Stern-Haskell were also reported in an offering circular issued by Marinus in 1969 (Reynolds X. P) in connection with an "all or nothing" public offering, which was aborted because of a misunderstanding about a non-existent automatic extension of the period during which the offering could be held open (Tr. 6246-49).

POINT I

REYNOLDS' CONVICTION MUST BE REVERSED BECAUSE THE COURT ABUSED ITS DISCRETION IN LIMITING EACH DEFENDANT TO TWO HOURS ON CROSS-EXAMINATION OF GOVERNMENT WITNESSES

When the jury was selected in this case on Wednesday, January 22, 1975, they were informed by the Court that this trial would last approximately three weeks. The following day was taken up completely by opening statements, although several defendants waived opening statements. On Friday, January 24, 1975, the jury heard two Government witnesses and a third, Nordin, was still testifying at the close of the day. On the following Monday, January 27, the Court was informed that both Assistant United States Attorneys had been taken ill and an adjournment was requested. The adjournment was granted until Thursday, January 30, at which time a substitute Assistant United States Attorney presented five "victim witnesses" before the luncheon recess and a further adjournment was granted until Friday morning. On Friday, January 31, the original Assistant United States Attorneys returned to Court, and the jury heard a final, brief "victim witness", before Nordin resumed the witness stand. Nordin consumed the remainder of the day and one-half of the following day on his direct testimony which by now totalled

approximately 232 transcript pages. Cross-examination consumed the remainder of the afternoon, and on February 4th, while the third defense attorney was cross-examining Nordin and a point where the cross-examination totalled approximately 148 pages, the Court announced

> "I am going to have to put a limit on cross-examination, which I will now do before we proceed further in this case."
>
> "The Court's ruling is that no witness may be cross-examined by any counsel for more than two hours. That applies to all attorneys and all defendants representing themselves."
>
> " I don't want any argument on it." (Tr. 1023-24).

In response to a question, the Court indicated that the ruling did not apply to direct examination (Tr. 1025). Counsel were not permitted to object and no reason was given for the ruling, but the time lost through the Assistants' illness and the effect that would have on the estimated time of the trial undoubtedly played a major part in the ruling.

This arbitrary and unreasonable limitation on cross-examination made a mockery of the trial with the Court regularly announcing the time left to a particular attorney, attorneys pleading for additional time with significant witnesses, negotiating for additional time where time had been lost through interruptions

of cross-examination, and generally conducting their defense with one eye on the clock and the other on the witnesses (Tr. 1041, 1328, 1347-48a, 1401, 1403-06, 2697, 2702, 2708, 2710, 2712 and 2714).

It did not take the jury long to get the idea that time was a problem, because on the day following the Court's initial limitation on cross-examination, a note was sent to the Court requesting a "reestimate" of the length of the trial (Ct. X* 2) (Tr. 1320). On the date the note was sent to the Court, the jury had been sitting for two weeks, and they reminded the Court of the original estimate that the trial would last three weeks. The prosecutor now estimated that the Government's case would take "eleven to twelve more days (Tr. 1326). The Court thereupon limited the defense even further by allowing two hours for cross-examination of "major witnesses" and stated, "with respect to minor witnesses, it will be limited even further, and before I forget it, with respect to this re-cross, no lawyer will be permitted more than one-half hour."

The trial court did not merely abuse its discretion by thus limiting cross-examination, and destroying the defense attorney's most effective weapon for getting at the truth, but it enforced its ruling by constantly intoning the time

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* "Ct. X" refers to Court's Exhibits.

remaining on cross-examination and bickering with defense attorneys about the time remaining, thus turning what should have been a very serious and dignified federal criminal trial into an uncomical version of "Beat-the-Clock." In addition, the Court prejudiced an already anxious jury against the defense, by making it appear that the defendants were intentionally prolonging the trial, when the truth of the matter was, the "delay" such as there was, was a result of the prosecutor's woefully inadequate estimate of the length of time required to try the case, coupled with the unexpected illness of the prosecutors for four trial days.

To establish that the Court's ruling was not merely erroneous but resulted in substantial prejudice to the defendants, one need only consider the example of the Government's principal witness, Sidney Stein. Stein testified on direct examination for approximately one and one-half trial days, starting late on February 24 and finishing before the luncheon recess on February 26. In all, his direct testimony covered approximately 229 transcript pages (Tr. 3446-3675). The following brief resumé of Sidney Stein's criminal activities will give the Court some idea of the amount of information counsel had to cram into a two-hour cross-examination.

This indictment marked the fourth time that Sidney Stein had been charged with stock fraud in the Southern District of New York. On the very day the first indictment, 65 Cr. 649 ("Perma Spray"), was made public, Stein was negotiating to pay Ruby Bach $25,000 to "fix the case." He was ready, willing and able to make the payment but did not do so because the news of the indictment came across the "ticker tape." That case was subsequently dismissed for failure to prosecute. In 1966, Stein was indicted in "the Buckeye case", 66 Cr. 732. Stein was indicted again in 1968 in "the Terminal Hudson case", 68 Cr. 168, which was subsequently dismissed because of the Government's repeated failure to provide particulars ordered by the District Court. Stein avoided indictment in "the Imperial Investing case", 70 Cr. 967, by being named a co-conspirator and testifying under a grant of immunity against Johnny Dio, Vincent Aloi, Carmine Tramunti and others whose reputations are known to this Court. In May 1971, Stein was convicted in "the Buckeye case" and sentenced to two years in jail . Also in 1971, Stein was indicted for perjury based on testimony he gave in a civil injunctive proceeding before Judge Mansfield in "the Radio Hills Mine case", Indictment 71 Cr. 1049. In March of 1972, Stein allegedly began discussing a possible "fix" of his sentence and/or conviction in "the Buckeye case"

with two attorneys in Washington, D.C. and two other individuals, (United States v. "Quase", 73 Cr. 80). In June 1972, the Supreme Court denied certiorari in "the Buckeye case" and Stein began to compile a psychiatric background to avoid incarceration. He consulted a psychiatrist in Miami and obtained a psychiatric report dated July 18, 1972. Then some five months after starting his alleged discussions to "fix" the "Buckeye case", he reported the "facts" to the United States Attorneys Office and they referred him to the Federal Bureau of Investigation on August 7, 1972. When it appeared that Stein was intentionally delaying the investigation, he was ordered to surrender on October 13, 1972. Stein made a motion for reduction of sentence based on his "cooperation" in the Quase case, which was denied on October 12, 1972. At that time his perjury case was scheduled to begin on October 16, 1972. Stein sought and obtained permission to visit his family prior to surrendering on October 13, and what follows would seem incredible but for the fact that these events are set forth in an affidavit filed in Court by an Assistant United States Attorney (Reynolds X. F). Stein faked suicide on the plane to Miami and had himself checked into a psychiatric institute. When the Government moved in the Southern District of New York to have Stein moved to Springfield for a psychiatric examination, Stein countered

by obtaining an ex parte order in Florida preventing his removal from the institute. This dilemma was eventually resolved and on November 7, 1972 Stein was sent to Springfield. On January 30, 1973, having spent less than three months in jail, Stein's motion to reduce his sentence, based on his cooperation, his psychiatric history and his wife's illness was granted. It should be mentioned that not all of the three months were spent in Springfield as Stein was testifying for part of that time in the Southern District of New York in the Quase case.

This resumé leaves out Stein's role as a Government informant in a narcotics case in which a pilot and an attorney were convicted of dealing in drugs, it leaves out the vast sums of money Stein made by manipulating stocks* and it leaves out entirely the question of Stein's income tax returns and the effect they may have had on his testimony. In short, the resumé just reveals the tip of the iceberg and a skilled cross-examiner could have fruitfully questioned Stein for two days, let alone two hours, and in United States v. Quase that is exactly what was done.

It is one thing to argue, as the Government undoubtedly will, that all or most of these activities were gone into on

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* Stein did admit that he is a millionaire today but there was no time to explore how much money he made in each illegal venture (Tr. 4103).

cross-examination, it is quite another to have to race through this litany of past criminal activities, while a witness like Stein, ever aware of the two hour limitation, makes a mockery of cross-examination by giving as verbose an answer as possible, and the Court refuses to instruct the witness to answer the questions. For example, it took almost three pages to establish that the Supreme Court denied certiorari in "the Buckeye case."

"Q And you asked the Supreme Court to review the conviction?

A Yes.

Q And the Supreme Court said, "No, we are not going to review the conviction."

A No. The solicitor general took it under advisement, along with the Barker case, and the speedy trial law went into effect in July of '71 --

Q Mr. Stein, did the Supreme Court refuse to review your case?

A No, they didn't refuse. They started to review it, when it went in front of the solicitor general.

MR. KEEGAN: Your Honor, I have only two hours, will you please instruct the witness --

THE COURT: He may not know the answer.

MR. KEEGAN: He is playing games, your Honor.

MR. WOHL: I object to Mr. Keegan's comment, your Honor.

MR. KEEGAN: I will withdraw it. It is so obvious I don't have to say it.

THE COURT: This man is not a lawyer and he may not understand precisely what you are referring to.

MR. KEEGAN: He is about to go into a great detailed explanation --

THE COURT: You asked if the Supreme Court reviewed his case and he said yes, they started to, and you cut him off.

Q All right, Mr. Stein, give me your answer, please? Will you continue.

THE COURT: You can stand up while you are cross-examining the witness, Mr. Keegan.

MR. KEEGAN: That is a direction, I assume?

THE COURT: Yes.

Q Go ahead, Mr. Stein

A I received from my attorney a printed report from the solicitor general with regard to granting certiorari at the Supreme Court with regard to the Buckeye conviction, and the case was analyzed, along with the Barker case. I did not get a hearing because

the Supreme Court was adjourned. The law pertaining to the speedy trial went into effect in July of '71 and I went to trial in May of '71 and we appealed based on the fact that the '68 case was thrown out, the '66 -- the '65 case was thrown out and the '66 case was tried although the other cases were not heard, and the appeal was analyzed along with the Barker case and, finally, the Supreme Court denied the motion for dismissing the charges.

Q Mr. Stein, you left out what the Barker case was. The jury won't understand it. Tell them about the Barker case.

A That was the case of a murderer who never asked for a trial, who had been delayed three times, and since then the Supreme Court on similar cases has overturned such a long delay.

Q Was that case out in Tennessee?

A I don't know where it originated.

Q You are not a lawyer?

A I am not a lawyer, but I happen to read about my own case because it was of great interest to me.

Q If I can recall my question, perhaps the answer lies somewhere in what you told me. Did the Supreme Court review your Buckeye conviction?

A Yes.

Q What did they say after they reviewed it?

A They denied it.

Q They denied your petition?

A Yes.

Q In June of '72 they denied your petition, is that right?

A I think so. I am not sure of the exact date.

Q Was certiorari denied? Would that term be correct?

A That's correct." (Tr. 4041-4045)

It may be that counsel at that point would permit Stein to ramble and evade just as much as he desired because the jury would soon understand that Stein was being evasive and uncooperative, in an attempt to "beat the clock", but that option was really not available if Stein's background was to be explored in two hours.

Shortly after the above exchange, Stein became evasive again:

"Q Tell us the name of the man in Florida who first told you about attorneys in Washington who might be able to fix the two-year sentence in Buckeye?

A A man by the name of Harvey Segal.

Q Harvey Segal, a friend of ten years' duration at that time?

A He was somebody I knew. Not a friend of mine.

Q He just lived next to the place you kept your yacht up, is that correct?

A That is not correct.

Q What is incorrect about that?

A He lived there about two months.

Q Next to where you kept your yacht tied up?

A I don't think I had a yacht when I met him.

Q Was it a yacht or boat?

A I don't think I had a boat when I met him.

Q You sold it before that?

A No.

Q Did you buy it afterward?

A No.

Q Did you ever have a boat?

A Yes." (Tr. 4045-4046)

Once again, counsel was faced with the choice of "toying" with Stein with respect to a series of questions, the answers to which cannot all be true, or foregoing the opportunity in favor of more important areas of cross-examination in view of the two hour limitation.

Again at page 4046:

"Q Who did Harvey Segal tell you to go to see in Washington to fix your two-year sentence?

A A man by the name of Quase.

Q Tell the jury who Quase is.

A A man.

Q Tell them what else he is?

MR. WOHL: I will object to this, your Honor.

A A lobbyist.

MR. WOHL: I don't see the relevance."

As Stein well knew, Quase was a 67 year old alcoholic, sometime lobbyist, whom Stein accused of attempting to obstruct justice by "fixing" Stein's two year sentence in "the Buckeye case". Once again counsel was forced to choose between direct questions calling for a "yes" or "no" response, rather than allowing Stein's natural evasiveness to play itself out before the jury. Although it seemed preferable to follow the latter course, the time limitation forced counsel to choose the former and the remainder of the cross-examination followed that pattern.

In view of the Court's earlier refusal to direct Stein to answer questions directly, and in view of the two hour limitation, counsel had to accept answers such as "Something like that" (Tr. 4072, 4073), "I don't know, he could have told me that" (Tr. 4073),

"It could have that long, yes" (Tr. 4075), "I don't recall" (Tr. 4079, 4086, 4099, 4137), "I don't know if I did or not" (Tr. 4082), "I may have" (Tr. 4084, 4084a, 4140), "I don't remember" (Tr. 4086), "I don't know" (Tr. 4094, 4100, 4102, 4104, 4110 4110a, 4111). But evasiveness was a minor problem compared to the way Stein took complete control of the courtroom, arguing with counsel (Tr. 4076a-78, 4082, 4083-84, 4086-88, 4107-08, 4119-21, 4137-38, 4139-40, 4141-42), accusing counsel of misleading the jury, (Tr. 4086-88, 4134), demanding to see documents and prior testimony, (Tr. 4090-93, 4100, 4102-4102a, 4107, 4111, 4113, 4119-21), volunteering testimony helpful to himself (Tr. 4088-90, 4122-23) or harmful to other defendants (Tr. 4107). Only twice in Reynolds entire cross-examination did the Court do anything to indicate that Stein was not running the courtroom, and then the Court repeated the question to stop Stein from further dueling with the questioner (Tr. 4108), and later, after announcing that the questioner had one minute left, said, "Please don't make any remarks, Mr. Stein, don't ask any questions." (Tr. 4139-40). Shortly after the latter remark, the Court announced that the questioner's two hours had expired (Tr. 4142).

At the conclusion of Stein's cross-examination, without any forewarning, the Court announced that defense counsel could have a few additional minutes because one defendant

did not cross-examine Stein, but required that counsel list the areas to be inquired into on cross-examination (Tr. 4260). This unexpected last minute offer which required counsel to instantaneously set forth new areas of cross-examination can hardly be claimed to have undone the harm previously caused by requiring counsel to concentrate their entire cross-examination into two hours, especially in view of the Court's oft-expressed ruling that only new areas may be gone into. In fact, counsel was shortly stopped after going over an area touched upon earlier in cross-examination (Tr. 4298). Thus, having been forced to merely skim an area of cross-examination because of the time limitation, counsel were now precluded from delving into the same area because it was not "new."

While the scope and the extent of cross-examination is always within the discretion of the trial Court, it has been held to be reversible error to deny wide latitude when the testimony of an accomplice is involved, United States v. Wolfson, 437 F2d 862 874-76 (2d Cir. 1970); United States v. Dickens, 417 F2d 958 (8th Cir. 1969). The general rule states that the Court "may not restrict the right to cross-examination until it has been substantially and fairly exercised", United States v. Pugh, 437 F2d 222 (DC Cir. 1970). Research has turned up no case in which an arbitrary time limitation

imposed prior to any cross-examination by a particular defendant, and applying to witnesses who have not even testified at the time of the ruling, has been the subject of a higher court decision, but it is respectfully submitted that such a ruling is grossly unfair; constitutes a gross abuse of discretion; deprives the defendant the effective assistance of counsel; deprives the defendant the right to confront the witnesses against him; deprives the defendant of procedural due process and a fair trial; and, if permitted, establishes a most dangerous precedent for future criminal trials in this Circuit. For all the above reasons Reynolds' conviction must be reversed.

POINT II

THE JURY'S VERDICT ON COUNT FOURTEEN WAS AGAINST THE WEIGHT OF THE EVIDENCE

The jury correctly found Reynolds not guilty of the overall conspiracy to sell unregistered stock among other purposes, because the Government's own witness, Nordin, testified that Reynolds only role was to bring "the shell" to Chester, who was to place some assets in the corporation, form a new company and change the name (Tr. 566-70). Hochen testified that the original plan was to revive the corporation, increase its stock and make a profit for the corporation and the shareholders (Tr. 2555-57). After bringing the corporation to Chester, the evidence indicates that Reynolds had nothing further to do with the corporation*. This effectively removes Reynolds from participation in the "distribution" of Stern-Haskell stock by National Ventures, and renders consideration of the question whether registration was required for that distribution moot. See S.E.C. v. Harwyn Industries Corp., 326 F. Supp. 943 (S.D.N.Y. 1971) (Mansfield J.)

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* Nordin testified that he and Chester were the only officers and Reynolds owned only three lots of 48 shares each as trustee for each of three minor children.

Reynolds only re-emerges in the testimony at the point where he travels to New York to sell some Stern-Haskell stock*. It was the Government's contention that the stock sold in New York was actually Chester's stock, which had been placed in McKay's name as Chester's nominee, and subsequently transferred to Reynolds for the purpose of this sale. If that were proved then Reynolds would be guilty as an "underwriter" (Title 15 U.S.C. Section 77b (11)) or as an aider or abettor to Chester, who could be considered a "control person" (S.E.C. v. National Bankers Life Ins. Co., 324 F. Supp. 189, 194 (N.D. Texas 1971)) or an "issuer", (Title 15 U.S.C. Section 77b (11)). If on the other hand, the stock Reynolds sold in New York was his own stock, which he acquired from McKay, then under the exemption provided by Section 4(1) of the Act, Reynolds would not be guilty because no registration would be required since Reynolds was not an "issuer, underwriter or dealer".

The Government's proof showed that McKay was a friend of Chester's, who signed some papers placing approximately 38,000 shares of National Ventures stock in his name. Only McKay, Chester and Nordin were present at the time and there was no

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* Reynolds had earlier purchased 1,200 shares of Stern-Haskell which he sold through his broker and had handled the sale of 10,000 shares of Stern-Haskell for his employer Marinus Laboratories through a New York bank. Reynolds was not a shareholder of Marinus at the time and neither of these sales were charged in this indictment.

discussion about payment for the shares at that time (Tr. 605-07). Larry Hochen had made one passing reference to the fact that at a meeting when Reynolds was not present, "some of these people, Feiffer, Weitzman and McKay were to be nominees" (Tr. 2580). The original offer to buy a block of stock had been made to Chester, who came to New York with Reynolds or McKay, where the sale took place on June 6, 1969 (Tr. 3572-3602). On June 9, 1969, Chester deposited $10,000 check in his bank in Florida with the notation "Loan from Ed Reynolds" on the deposit slip (G.X. 150) (Tr. 3154).

Against this evidence there was the following facts, the Government's own chart showed Reynolds acquired the Stern-Haskell stock from McKay, (G.X. 27); the certificates were in Reynolds' name (G.X. 41); the check from the seller was made out to Edgar Reynolds and endorsed by Edgar Reynolds (G. S. 215A); that same check was redeposited in the sellers account on June 9, 1969 (G.X. 215B and 215C) indicating that Reynolds had the check cashed by the seller; the same bank officer who identified Chester's deposit slip indicated that a check had definitely been deposited yet no such check was reflected in either of Reynolds' bank accounts for the relevant period (Reynolds L and M); no copy of the check could be produced because the microfilm had been exposed; and finally and most importantly, the Government never called McKay to testify as to his dealings with Chester or with Reynolds. On the state of the record the jury's verdict on Count Fourteen was against the weight of the evidence, and Reynolds' conviction must be reversed.

POINT III

Reynolds' Conviction On The Sale Of Unregistered Securities Must Be Reversed Because It Is Based On An Ex Poste Facto Application of the Securities Laws.

Prior to S.E.C. Release No. 4982, dated July 2, 1969, it was the widely accepted view of the Bar that the distribution of a stock dividend to existing shareholders, not for value, did not constitute an "issuance" of stock requiring a registration statement. This "loophole" in the statutory scheme was only closed by the 1969 release, which was issued in response to a sudden increase in the use of the "spin-off" technique as a means of avoiding the expense of a registration statement. See S.E.C. v. Harwyn Industries Corp., 326 F. Supp. 943, 954 (S.D.N.Y. 1971) (Mansfield J.). Harwyn, decided after the sale of stock upon which Reynolds stands convicted, represents the first judicial pronouncement that a "spin-off" should not be considered exempt from the registration requirements of the 1933 Act. Given that state of the law, no registration was required for National Ventures to acquire and distribute 200,00 shares of Stern-Hasbell on March 7, 1969. As the government's own evidence shows, Reynolds subsequently acquired 18,750 shares of Stern-Hasbell stock from McKay, a friend of Chester's, who had acquired the same stock from Chester, and Reynolds sold the stock in New York on

June 9, 1969, to an unindicted co-conspirator, Rabbi Weiss, who allegedly was acting on behalf of Stein and others. The government contended that Reynolds was acting on behalf of Chester and pointed to the fact that Chester arranged the sale with Stein, accompanied Reynolds to New York and deposited a large sum of money in his bank account following the sale. The government further contended that Chester was a control person and Reynolds was a member of a control group, consisting of Stein, Feiffer, Rubinsor, Chester and their nominees. Not only was the government's proof inadequate to sustain its contentions but the definition of "control person" or "control group" is so vague as to deprive Reynolds of a "sufficiently precise statute revealing the standard of criminality before the commission of the alleged offense." Watkins v. United States, 354 U.S. 178 (1957). The fact that the S.E.C. saw the need to issue a clarifying release shortly after the alleged crime is further evidence that there was no precise standard in existence, but the standard as clarified, both by the S.E.C. and the Harwyn case should not have been applied to conduct occurring at an earlier time. See Bouie v. City of Columbia, 378 U.S. 347 (1964). Since that was done in this case (see Point IV), Reynolds' conviction must be reversed.

POINT IV

Reynolds' Conviction Must Be Reversed Because The Courts' Charge On The Requirement of Registration And Exemptions From Registration Was As Vague As The Statute Itself.

With respect to third element of the sale of unregistered securities, the Court instructed the jury as follows:

" The third basic element, that is, the question whether the stock was required to be registered revolves most importantly about the question of whether or not these were exempt transaction. You undoubtedly observed when I read Section 5 that it is a very broad and all-encompassing prohibition against the use of the mail to sell any unregistered securities whatsoever. That broad prohibition of Section 5 must be read in conjunction with certain exemptions contained in the Securities Act, which provides that in certain instances and only in those instances a sale of stock will be exempt from the requirement of registration."

" For the purpose of this case you may consider as within the registration requirements of the Securities Act all transactions made through an issuer and involving a public offering and all transactions made through an underwriter as I shall now define those terms for you. For the purpose of this case you cannot find that a particular sale of unregistered Stern-Haskell

stock caused by the defendants was illegal unless that sale was made through an issuer involving a public offering or through an underwriter."

"The statute defines the term issuer to mean every person who issues or proposes to issue any security."

Title 15, U.S.C., Section 77B (4).

" In addition, the statute includes as an issuer any person directly or indirectly controlling or controlled by the issuer."

Title 15, U.S.C. Section 77b (11).

" Thus, any public distribution of Stern-Haskell shares, involving either an issuer or a control person would not be exempt from the registration requirements of the securities laws."

" What is meant by "Control Person"? How do you decide who is a controlling person? The resolution of these questions depend upon the facts of each case, and focuses not on any technical factors, but on the person's power to direct the management, policies and decisions of the corporation whose stock is being issued. Clearly it includes officers, and directors of the issuing corporation. But a person does not have to be formally connected with the issuing corporation in order to be a control person. Nor is it necessary that a person own a specific amount of shares in order to be a control person."

"A controlling person in the context of this statute, is someone, who, by one means or another, such as stock ownership, executive office, relationship with executive officers, could cause the corporation to file or not to file a registration

statement with respect to a proposed distribution of securities.

" The power to control, even if unexercised, may make a person a controlling person. Thus either the power to control or the actual exercise of control is sufficient to make a person a controlling person. "

"In addition, a group of people may be controlling persons, if they are acting in concert and their power in the aggregate is sufficient to cause a registration statement to be filed."

"When control rests in a group, each member of the group is a control person, regardless of the size of his personal stock holdings and regardless of his individual power to control the issuance of a registration statement."

"When stock is held by a controlling person, a public sale of any portion of the stock he holds is subject to registration. Likewise, when stock is held by a member of a controlling group, a public sale by any one of them, acting in concert with the others, of a portion of the shares held in a sale by a controlling person and is not exempt from registration. "

"As I have said, the government's claim in this case is that the defendants charged in the unregistered stock counts purchased stock from the issuer, Stern-Haskell, with a view toward distribution and, by virtue of that purchase, were underwriters with respect to that transaction and any subsequent transaction. "

"In addition, the Government also claims that the defendants Chester, Rubinson, Feiffer, Reynolds and Stein were controlling persons with respect to the 150,000 shares of Stern-Haskell held by them directly and indirectly, through persons who

received large blocks of Stern-Haskell stock on their behalf when the liquidating dividend was distributed to National Ventures shareholders."

" Thus, even if you find that the initial purchase from Stern-Haskell and the liquidating dividend to the individual shareholders of National Ventures was not with a view toward public distribution, the Government contends that any subsequent transaction with respect to the 150,000 shares held directly or indirectly by any one of the alleged controlling group with a view to public distribution was a transaction involving a control person and should have been registered under the securities laws."

" It is, of course, for you and you alone to determine whether or not a given transaction in Stern-Haskell was with a view toward public distribution, and whether or not a particular defendant was an underwriter, a control person or neither, with respect to each transaction."

" For our purposes an underwriter is either someone who purchases Stern-Haskell stock from the company Stern-Haskell itself or from a person in direct or indirect control of Stern-Haskell with a view to distributing that stock or someone who directly or indirectly participates in any such underwriting."

" In other words, an underwriter is a middleman acting for a company or a controlling person of a company in the sale to the public of large quantities of stock in the company."

" It matters not what a person's profession is or whether he describes himself as an "underwriter." If he acts for an issuer of stock, or a controlling person, in the ways I have

described, or directly or indirectly participates in any such undertaking, he is, for purposes of Section 5, an underwriter."

" The Government contends that the defendants Rubinson, Feiffer, Chester and Reynolds, along with defendant Stein who is not on trial, were underwriters of Stern-Haskell."

" The Government contends that these defendants were underwriters because, through National Ventures, they purchased stock of Stern-Haskell with a view to distributing that stock to the public."

A "distribution" is an offering to the public of stock, that is, a sale by the company itself or by a "control person," or by those associated with him of a large amount of stock in a company, that is, an amount which is substantial in relation to the total amount of shares outstanding.

Only transactions involving a sale of stock are subject to the registration requirements of the Securities Act of 1933. If you find that defendants' activities in connection with Stern-Haskell stock did not involve a sale, then they were exempt from registration.

In determining whether or not the Stern-Haskell stock here in issue was required to be registered, you should consider the overall purpose of the Securities Act of 1933 which is to provide adequate disclosure to members of the investing public and to prevent circumvention of the registration requirements by devious means.

Accordingly, you are not required to consider each stage of the transactions here in issue, the transfer of stock from Stern-Haskell to National Ventures, National Ventures declaration

of a stock dividend and the subsequent creation of a public market in the Stern-Haskell stock, as isolated events. You may, instead, view them as a whole, as parts of an integrated chain of events. If by so doing, you determine that the entire transaction involved a sale of Stern-Haskell stock to the public, then you may find that it was not exempt from registration under the "no sale" theory. In arriving at this determination you may consider what the defendants' purposes were in the transaction as you find it, and whether you find that the defendants had any business purpose in the transaction here, other than the sale of Stern-Haskell stock to the public."

That charge does little more than repeat portions of the statute, with the government contentions sprinkled in. It gives the jury no guidelines to determine what "facts" they must find to find a defendant guilty of the charge. It says nothing which would assist a jury in determining who is and who is not a "control person"; what sort of activity is necessary to make one a member of a "control group"; or how to determine who is "associated" with a "control person"; and while it informs the jury that they may view all the transactions in Stern-Haskell as a whole, it does not inform them that they need not do so, which was the law at the time of the transaction in question. See Harwyn, 326 F. Supp. 943. Timely objection was taken to this portion of the charge. (Tr. 7238-7240)

The Court's charge on the sale of unregistered securities count was so vague as to allow the jury to convict Reynolds of the crime simply because he was an associate of Chester, or because he made a loan to Chester following the sale, or because Chester accompanied him to New York when Reynolds sold the stock. For that reason Reynolds' conviction must be reversed.

POINT V

REYNOLDS' CONVICTION MUST BE REVERSED BECAUSE THE COURT ABUSED ITS DISCRETION IN DENYING REYNOLDS THE OPPORTUNITY TO ELICIT EXPERT TESTIMONY ON THE LAW REGARDING REGISTRATION REQUIREMENTS APPLICABLE TO SPIN-OFFS IN 1969 AND ABSOLUTELY DENIED THE DEFENDANTS THE RIGHT TO CROSS-EXAMINE A GOVERNMENT WITNESS WHO GAVE AN EXPERT LEGAL OPINION

The Government called Marc White, an attorney specializing in corporate law and securities law (Tr. 3058-59). He identified an opinion letter he had supplied to Chester with respect to Mobile Homes (G.X. 120), and related a conversation in which he informed Chester that "the area of law of spinning off companies, where you would have theoretically no sale, so there would not be a requirement for a prospectus, was very much in doubt and that in my opinion it would be very difficult to render a legal opinion that what he contemplated having his client do would be permissable." Chester said an opinion even "largely in the negative" would be helpful and White wrote the opinion letter (Tr. 3059-60). White, over vigorous objections based on the attorney-client privilege (Tr. 3063), then answered that Chester had not told him that National Ventures and Mobile Homes would exchange $2,000 checks as part of the transaction (Tr. 3064), that National Ventures had almost no assets except a piece of land with a clouded title

(Tr. 3067-68), that many of National Ventures shareholders had received their stock as gifts in small amounts (Tr. 3068), that Chester was the major stockholder of National Ventures and had options to purchase other shares from other majcr shareholders of National Ventures (Tr. 3068), that some major stockholders in National Ventures were nominees for people who were making a market in the spun-off stock (Tr. 3069). In addition to violating the attorney-client privilege, each question related to the Mobile Homes Ventures spin-off, a similar act not charged as a crime in the indictment. The opinion letter itself was dated May 16, 1969, over a month after the Stern-Haskell spin-off had taken place, so the conversation between Chester and White could have no relevance on Chester's state of mind with respect to the crime charged.

Since the whole tenor of White's testimony was to leave the jury with the impression that Chester mislead White into writing the opinion letter, the defendants attempted to cross-examine White on the legal significance of the "omitted facts", but were not permitted to do so because the prosecutor claimed White's testimony was limited to Chester's state of mind (Tr. 3072-73). The following exchange then ensued:

> "THE COURT: You are not going to ask this witness about the law, even though he wrote that letter. The offer is to show Mr. Chester's state of mind. He is

not going to testify as to what the law is, if that is where you are proceeding.

MR. ROBSON: I don't believe that anything I said would indicate that.

THE COURT: I am just telling you now, because we have had that attempt repeatedly now, to have witnesses come here and testify as to whether spin-offs were legal or not legal at the time in question.

MR. ROBSON: I intend to ask this witness about his conversations with Mr. Chester and what aspects of the law he discussed.

THE COURT: For what purpose?

MR. ROBSON: The purpose is, your Honor, while this testimony has been adduced, according to Mr. Wohl, solely against Mr. Chester and not against my client, Mr. Wohl has indicated to your Honor that it is an intention to introduce all of the testimony about Mobile Homes as against four individuals, including my client.

In other words, if I understand Mr. Wohl's statement -- and I must confess that I don't always understand them -- to the best of my ability to understand what he has said, he says that my client and Mr. Rubinson and Mr. Chester and Mr. Reynolds were engaged in a conspiracy

to spin-off the stock of Mobile Homes also in violation of law and in his attempt to establish that the four of them were engaged in this conspiracy has introduced the testimony of this witness to show that one of the members of that conspiracy had a certain state of mind.

Now, I believe under those circumstances that I have an obligation to my client to attempt to establish that that alleged co-conspirator did not have a wilful or evil state of mind, that based upon his conversation with this gentleman, he came away with the understanding that the law was confused, that many people thought a spin-off was proper, that many people thought it was not proper, and that Mr. White was not saying to Mr. Chester that a spin-off is illegal, but rather that because of the flux in the law, because of the changing aspects of the law, he did not feel it was proper for him to render an opinion that it was permissable.

Now, that is a big distance from saying that Mr. Chester was engaged in a criminal activity because this attorney did not feel that he could unequivocally say it was permissible.

Your Honor must know that SEC lawyers, and I am one of them, are asked regularly to render opinions about

things and that unless we are 100 percent certain, and Mr. White, I think will say this, that he would have advised Mr. Chester that unless he could be almost 100 percent certain that something was proper, he would not opine that it was.

THE COURT: That has been brought out on his direct testimony. Isn't that in his direct testimony?

MR. ROBSON: No. He made only one statement and Mr. Wohl stopped at that point. I would like to expand it somewhat to make it clear just what he did tell Mr. Chester about the state of the law.

We are talking about intent, Mr. Chester's intent, the intent of everybody in this courtroom sitting at the table as a defendant. That's where it is all at in this case.

What did these people intend? Did they intend to criminally violate the law or not?

THE COURT: Is this evidence offered against Mr. Feiffer to show his intent?

MR. WOHL: Definitely not, your Honor.

THE COURT: All right. The Court's ruling is you may not cross examine this witness as to that. Do you have anything further?

MR. ROBSON: No. How could I have anything further, your Honor?

THE COURT: Mr. Chester." (Tr. 3074-77)

The Court twice repeated its ruling that the witness was not going to be permitted to testify as to what the law is (Tr. 3090), and even after Reynolds qualified White as an expert, and offered to make White his own witness, the Court refused to permit White to "be asked any legal opinion on this witness stand" (Tr. 3097). The Court also refused to allow Reynolds to question White about the transferability of "spin-off" shares by Reynolds based on the facts in the case (Tr. 3097). While it is true that a Court has wide discretion in admitting expert testimony, United States v. Wolfson, 405 F.2d 779 (2d Cir. 1968) cert. denied, 394 U.S. 946 (1969), the Court abused its discretion by precluding White's expert testimony in this case for the following reasons: (a) the testimony was obviously necessary because of the complexity of the securities laws in general and the confused state of the law regarding spin-offs in 1969 in particular, which was not resolved until Judge Mansfield's opinion in United States v. Harwyn Industries Corp., 326 F. Supp. 943 (S.D.N.Y. 1971); (b) the witness, a graduate of Virginia Law School had been admitted to the bar in 1949, and in 1968 was practicing law in Washington, D.C., specializing in the area of corporate law and securities law, and considered himself

competent to render opinions with regard to spin-offs and the S.E.C. (Tr. 3058-59, 3094-95); and (c) no objection could be made to the form of question since counsel was not even permitted to frame a hypothetical (Tr. 3097). The Court gave no reason for refusing to permit the testimony and simply stated that "the witness will not be asked any legal opinion on this witness stand (Tr. 3097). Even after the citation of authorities authorizing the admission of expert opinions on a variety of subjects, the Court remained adamant in its ruling. Finally, counsel offered a copy of Rule 704 of the Federal Rules of Evidence*, which holds that an opinion is not objectionable merely "because it embraces an ultimate issue" but the Court still refused to permit the questions (Tr. 3097-98).

Unfortunately for Reynolds, this was no mere technical error which would not effect the outcome of the trial. Reynolds had admitted as early as February 17, 1970 before the S.E.C. that he sold Stern-Haskell stock in New York on June 6, 1969, after transporting the stock from Miami**(Count Fourteen).

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* While the Rules were signed into law prior to the start of the trial, they did not take effect until July 1, 1975, but Rule 704 is not "new", see United States v. Johnson, 319 U.S. 503 (1943); Riley v. United States, 225 F.2d 558 (D.C. Cir. 1955).

** In fact at the trial, Reynolds stipulated to those facts and stipulated that he endorsed the check from B'North Jerusalem which he received in payment of the stock (Tr. 5996).

Counsel had admitted from the very outset of the trial that no registration was then in effect with respect to Stern-Haskell, and the questions before the jury on that aspect of the case as it applied to Reynolds had always been, "Was a registration statement required?" and "Did Reynolds know a registration statement was required?" The Court's ruling took the heart out of Reynolds defense by making it impossible to get before the jury an expert opinion from a Government witness, that Reynolds sale of Stern-Haskell stock on June 6, 1969 was, or might have been, exempt from the registration requirements of the law, or in the alternative, his opinion that the law was so confused at the time of the sale that he could not give an opinion.

After refusing to allow the defendants to elicit any legal opinion from Mr. White, the Court, over vigorous objection, then permitted the prosecutor to ask the following question and receive the following answer:

"Q Mr. White, how can you recall that Mr. Chester did not tell you the things that I asked you about in the direct examination?"

* * *

(Objections deleted)

A Because I -- if I had known those facts I wouldn't have written the opinion." (Tr. 3100-01)

That answer is certainly a legal opinion, but even after counsel pointed out that the prosecutor had just done what the defendants were prohibited from doing, and insisted on their right to recross-examine the witness, the Court excused the witness, and denied Reynolds' and the other defendants' motions for a mistrial (Tr. 3101-05).

Much less in the way of denial of cross-examination has resulted in reversals in United States v. Hogan, 232 F.2d 905 (3rd Cir. 1970) and United States v. Lindsey, 133 F.2d 368 (D.C.Cir. 1942). See also Reilly v. Pinkus, 338 U.S. 269, 275 (1949) on the lack of logic and unfairness of limiting cross-examination after an expert has given an opinion.

POINT VI

Reynolds' Conviction Must Be Reversed And A New Trial Ordered Because Of The Prosecutor's Prejudicial And Improper Rebuttal Summation

The Government's principal witness at trial was Sidney Stein and, of course, the defendants concentrated much of their attack and their summations on the credibility of Stein. The prosecutor, who delegated some responsibilities of this rather complex and lengthy trial to a second Assistant United States Attorney, and an S.E.C. investigator,was under the mistaken impression that the "Lockwood Blotter" (G.X. 500), which contained all of Lockwood's trades for 1969, and a list of Wax's trades (G.X. 75) had been admitted into evidence in toto and for all purposes, and made the following statements in his rebuttal summation:

> " In addition, Mr. Andrews, after all of the evidence is in, says there isn't any evidence that Mr. Levine or Mr. Wax were involved in any other transactions with Mr. Stein; therefore, you should find, ladies and gentlemen, that this is a one-shot transaction and that all the rest of the time they were good little boys and they were never pulling off any frauds."
>
> " You certainly didn't hear him ask that question when Stein was on the stand, did you? Did you get into any other deals with Mr. Levine? Did you hear him ask that

oney (sic) Did you hear him ask Mr. Kaye whether there were any other deals with Mr. Levine or Mr. Wax? You sure didn't hear him ask that when the witnesses were on the stand. He didn't have the nerve to do that."

" Ladies and gentlemen, if you want to look at the evidence you look at this evidence, the Lockwood blotter that is in evidence. Mr. Wax's trades are in evidence. You are going to hear about some other stocks. Do you remember the stock that Sidney Stein testified were manipulated stocks? Allen Electronics, Beta Orthodontis, Boujeray Watches, which Kravetz testified to, Cadillac Knitting Mills, Calculator Computer, David Ault, General Auto Parts, Fallon Smith, the great Imperial stock, Lanai, Loric, Viking General. They are all in the record, ladies and gentlemen, of the stocks being manipulated and brought out on cross examination of the government witnesses. You didn't see him have the guts to ask that question when they were on the stand."

" Well, ladies and gentlemen, just look in Mr. Levine's blotter, if you are really interested in that. Look at what Mr. Wax was selling to his customers, if you are really interested in that. And you will find an answer to that particular problem."

" But the government didn't present that originally. Not because we didn't have it, not because we didn't particularly want to focus on it, but because you should

focus on the evidence that is related to Stern Haskell, and the government submits that you should not be misled by suggestions as to what is not in the evidence or suggestions that there is something that's been left out because it isn't there." (Tr. 7096-97)

Not only was the prosecutor mistaken in his belief that the "blotter" and the list were in evidence in toto* (Tr. 4435-36), but he implied that some defendants on trial had engaged in uncharged, illegal activites with respect to other stocks in those exhibits , simply because Stein admitted that he had done something illegal with respect to those stocks. The effect of these remarks on the jury was devastating. Not only had the prosecutor accused two of the defendants on trial of a multitude of crimes not charged in the indictment, and not proven at trial, but he had rehabitated Stein at a time when the defendants were powerless to even object to his remarks because of a prior court ruling.** Furthermore, the Court, after stating that objections would be taken up with the Court

*The Transcript at page 4436 contains a reference to Exhibit 300 as the Lockwood Blotter. The transcript should read Exhibit 500. It is on that same page that the statement was made that "All of the documents are with respect to transactions in Stern-Haskell stock" and it was the understanding of all defense counsel that the offer was limited to transactions involving Stern-Haskell. The same is true with regard to G.X. 75 (Tr. 506).

**The Court had ruled that no further interruptions or objections would be permitted during summation and had threatened to hold the attorneys in contempt if that were to happen (Tr. 6548).

after summations were concluded and out of the presence of the jury (Tr. 6548), then refused to hear objections and proceeded to charge the jury (Tr. 7105-08). Following the charge the Court heard exceptions to the charge (Tr. 7229) and sent the jury to dinner, after which the jury was to commence its deliberations (Tr. 7260). The Court at that time announced that objections to the prosecutor's summation would be taken up the following morning (Tr. 7260-61).

On the following day at the first opportunity to do so, objection was made to this aspect of the prosecutor's summation. It was pointed out that no prior similar acts had been charged involving any of the stocks named by the prosecutor, and both exhibits were admitted only as to transactions involving Stern-Haskell (Tr. 7316-20). The prosecutor initially indicated his belief that both exhibits were in evidence in toto and attempted to justify his remarks by referring to Wax and Levine's summation (Tr. 7320-22) wherein the following statement was made:

> "You have never been shown and you have not during this trial been shown any prior similar conduct or relationship between Mr. Levine and Mr. Wax and anybody else in this case, principally Sidney Stein. If they existed, you would have been shown." (Tr. 6877)

A lengthy discussion followed concerning whether the exhibits were admitted in toto, or only as to Stern-Haskell transactions. The Court finally ruled that the former was correct and the remarks were not so prejudicial as to require a mistrial (Tr. 7324-7338).

During the luncheon recess the prosecutor reviewed portions of the trial which had taken place during his illness, and quite correctly pointed out to the court that the Wax records (G.X. 75) had indeed been offered only as to Stern-Haskell transactions. He still maintained his belief that G.X. 500, "the blotter," was not so limited but admitted there could have been an

honest misunderstanding about it. (Tr. 7345). He further admitted he had made reference to at least portions of records not in evidence and suggested a curative instruction might be in order (Tr. 7346).

Of course the defendants felt that a curative instruction at that point, after the jury had been deliberating for some time, would only highlight the error and the Court refused to give a curative instruction (Tr. 7348-50). The Court also expressed its belief that, weighed against the government's "mountain of evidence," the remark was not so prejudicial as to deny the defendants a fair trial (Tr. 7348). In fact, the Court felt the jury would not even remember the remarks (7349-50). As the Court was saying this, a note from the jury was handed up by the Clerk (Tr. 7350), which requested the very items then under discussion, "the Lockwood Trading records" (Ct. X10) (Tr. 7353). In fact, as one defendant pointed out, the jury also requested the list of stocks Stein presented and was about to compare that list to the Lockwood trading blotter, precisely what the prosecutor suggested they do (Tr. 7356-57).

The argument concerning whether the document (G.X.500) was admitted as to its entire contents flared again, and this time the prosecutor who had actually handled the stipulation concerning the authenticity of the document admitted that she had said to defense counsel that, "basically these documents were underlying the charts," but insisted this was not a limitation on the irrelevant material contained in the document. She also insisted that the phrase "All of the documents are with respect to transactions in Stern-Haskell," which appeared at the end of the stipulation

(Tr. 4436) referred only to the documents immediately preceding the phrase and not to G.X. 500 (Tr. 7367). While one may sympathize with the junior member of the prosecution team, who too late realized the enormity of the error which had been committed, due, at least, in part, to her failure to correctly recall her earlier representations, off-the-record to the defense attorneys, and on the record to the Court, the Government's continued insistence on its own tortured interpretation of the stipulation itself, and the off-the-record discussions leading up to the stipulation, smacks of a lack of candor unworthy of the United States Attorneys Office.

The chief prosecutor took the position that he had anticipated using the records on his case-in-chief, only to show Stern-Haskell transactions. He had expected to use the records to cross-examine Wax or Levine concerning other stock transactions in the event either of them had taken the stand. It was his impression that the book was in evidence in its entirety, because there had been no discussion about marking things out, but to his everlasting credit he did not wish to rely on that technicality in a matter of such importance , where there was obviously a very deep and serious misunderstanding. He therefore suggested that the book not be given to the jury as requested and he requested the jury be instructed to disregard his remarks concerning "other stocks." (Tr. 7376-78)

The Court refused to give any curative instruction and merely instructed the jury that "the blotter' is in evidence only as the underlying data supporting the charts" (Tr. 7385-88).

Now that the harm had been done and the jury had focused on the unsupported allegations of other crimes, the defendants and the government combined to draft a curative instruction signed by all counsel at 6 p.m. and then requested the Court to read the instruction to the Jury. The instruction read as follows:

During the government's final summation Mr. Wohl referred to certain stocks other than Stern-Haskell which Mr. Stein stated he had been criminally involved in, and asked you to draw certain conclusions based on certain records of Lockwood and Company.

That reference was based on a good faith misunderstanding among counsel and the government. We have now cleared it up. And I instruct you that you should entirely disregard Mr. Wohl's comment because it has not been established, and the government does not contend, that defendants Levine and Wax and Lockwood and Company committed any criminal acts concerning any of those stocks other than Stern-Haskell.

(Court Exhibit)

At approximately 6:45 P.M. the Court announced its decision that the curative instruction agreed upon by all the parties would not be given, stating "If there is any damage, it has already been done, and this instruction is not going to do anything but highlight it (Tr. 7388-89). While the court may have been correct that the damage was beyond repair, some attempt to repair it should have been made. The jury then retired for the night.

On March 23, the defendants again requested the Court to give the jury the agreed upon instruction. The Court reviewed the record and stated that the prosecutor had in substance stated that "there was in the record other evidence that Mr. Wax and Mr. Levine had engaged in similar transactions with Sidney Stein--that is similar frauds." (Tr. 7396) The Court wanted to know if that was the Government's position. The prosecutor explained that the blotter alone would not support an argument that Wax and Levine were engaged in <u>other frauds</u> with Stein, (Tr. 7399), and he further stated that Wax and Levine's involvement in other frauds "was not something that was really established at the trial" (Tr. 7407).

The prosecutor further stated,

> "I think the sum and substance of the instruction is that, No. 1, the Government agrees that in thistrial (sic) we have not established that they engaged in other crimes other than the Stern-Haskell thing.
>
> That, No. 2, the Government does not ask the jury to find them guilty in this case based on any assumption or impression that they did commit other crimes, and, therefore, the instruction says the Government does not contend here that they committed other crimes.
>
> I think that is entirely accurate.
>
> I think that the instruction also states that the argument that I made was based on a good faith

misunderstanding among counsel, and what that refers to is my belief at the time I made the argument that the blotter was in evidence, and, therefore, the jury was entitled to look at the fact that Mr. Levine was trading these stocks, and it was my believ (sic) at that time, also, that Exhibit 75 was in evidence, and, therefor, (sic) the jury was entitled to look at that and see that the stocks that had been mentioned by Mr. Kaye and Mr. Stein were stocks that Mr. Wax was dealing in.

It seems, however, that as to the blotter I am convinced that there was a true good-faith misunderstanding on that, that a number of the defense lawyers were under the impression that that was not in evidence in its entirety. It was my impression that it was based upon the fact that nothing was masked out or anything."

* * * *

"What I am saying is I do believe that I had a basis for the statement I made. What I am also saying, however, is that it was not established at the trial."

While this discussion continued the jury reached its verdict without ever hearing the additional instruction (Tr. 7421).

Without conceding that "the Lockwood blotter," (G.X. 500), was received in evidence without qualification, it is respectfully

submitted that the controversy concerning this issue was and is "a red herring,"* which prevented the Court below from reaching the truly important question, i.e. was the prosecutor's summation merely fair response to Levine's summation, or was it so prejudicial as to require a curative instruction, and given the absence of such an instruction is a reversal now warranted? Since the government undertook to prove prior similar acts with respect to other defendants on trial, (and used much of the 9 weeks to do so), it was perfectly proper for Levine to mention there was no such proof as to him. Whether the further statement, "(the only relationship) that existed between Mr. Levine and Sidney Stein involved one transaction, and that was the Blank Furniture deal" (Tr. 6877) is an example of counsel putting his own credibility in issue may be a close question, but it certainly did not justify the response by the prosecutor. The prosecutor did not merely point out that Stein was frequently in Lockwood's offices and received telephone calls there, he as much as said, and this is the Court's interpretation of what he said, "there was in the record other evidence which showed that Mr. Wax and Mr. Levine had engaged in similar transactions with Sidney Stein--that is, <u>similar frauds</u>" (Tr. 7396). Without denying that that was the purport of his rebuttal summation,

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*The government apparantly concedes that G.X. 75 was received for the limited purpose of showing Stern-Haskell transactions, and yet reference was made to other transactions contained in that exhibit also. Thus, it should be clear the government was referring to evidence not in the record in its rebuttal summation.

the prosecutor admitted that the blotter alone would not support such a statement" (Tr. 7399). Since that was the substance of the prosecutor's statement, whether G.X. 500 was in evidence in toto, or not, becomes irrelevant, since even if it were, it does not support the statement made by the prosecutor concerning it,* and the government conceded as much at trial.

The degree to which the complained-of remarks prejudiced the defendants hardly requires amplification here. These remarks were virtually the last thing the jury heard from the attorneys before retiring to deliberate. The defendants were required by a previous court ruling to sit through the remarks without objecting, thus giving the jury the impression that they did not dispute the remarks, and the very substance of the remarks was to the effect, "This case is nothing, you should hear what other crimes the defendants committed with Stein." That these remarks were not wasted on the jury was amply demonstrated by their request to see the very documents which would "prove" these other crimes. Refusing to let the jury see the "proof," can hardly be said to have dispelled the impression that such proof existed, in fact, it may have convinced the jury that it did exist, yet it was the only safe approach in the circumstances. The situation cried out for an admonition to the jury, and the prosecutor recognizing that it did, assisted in the preparation of a proposed instruction, but was unable to convince the Court to give the instruction in time,

*The mere fact that Stein manipulated other stocks and used Lockwood as a broker in some trades in those stocks, simply does not justify the inference that the brokerage house or the individual broker was aware of and participated in the manipulation.

although all parties agreed it was necessary. This is not a situation which can be saved by reference to the prosecutor's pure motives, or good faith mistake, nor can his remarks be justified as fair response to an improper summation by a defense attorney. The prosecutor simply went too far afield, and made such a devastating attack upon the defendants, who had no opportunity to respond, that a new trial is warranted. As was said by this Court in United States v. Spangelet, 258 F.2d 338 342-43 (2d Cir. 1958):

> "It is well settled that the jury's consideration in a case should be limited to those matters actually brought out in evidence and that summation should not be used to put before the jury facts not actually presented in evidence. This doctrine is especially important in criminal trials: the prosecutor represents a sovereignty whose obligation is to govern impartially (citations omitted)... (T)his obligation may cause a jury to place more confidence in the word of a United States Attorney, then in that of an ordinary member of the Bar and it is especially inadmissible for the prosecutor to put into issue his own professional integrity as was done here."

Although the prosecutor here did not put his professional integrity in issue, the very real danger that the jury accepted his statement at face value was present, and their inability to verify his statements by looking at the documents undoubtedly forced them to accept the statements as true.

Perhaps closer to the mark is this Court's statement in United States v. Lefkowitz, 284 F.2d 310, (2d Cir. 1960) in which the prosecutor attacked the defendant as a man who led two lives, one as a parasite living on the unjust earnings of others, and the other as a pillar of society. This Court stated:

> "Apart from the needlessly colorful language, the peculiar vice of the argument lay in the implication, perhaps unintended, that the government knew a good deal about Lefkowitz dehors the instant case 'that Mr. Heller (the defendant's attorney) doesn't know' and that was not in evidence..."

See also Wagner v. United States, 263 F.2d 877 (5th Cir. 1959), wherein the prosecutor was criticized for attempting to make the jury believe that the defendants on trial were guilty of other and more profitable frauds than the one on trial, without taking the trouble to prove it.

While the prejudicial effect of the prosecutor's remarks with respect to Levine is too obvious to require comment, it should be noted that all defendants on trial suffered a "spill-over effect" simply because they were involved in a joint trial with Levine. Furthermore, in addition to attacking Wax and Levine, the prosecutor was rehabilitating Sidney Stein by implying that Stein was telling the truth about manipulating 250 stocks. The defendants had attacked Stein's list of manipulated stocks as Stein's own way of insuring that the immunity granted him for testifying in this

case was all encompassing. To insure that he was immunized from further prosecution, he listed every stock he had ever dealt in for fear the government might later claim that such dealings were illegal. Now the prosecutor without any support in the record was saying in effect, "Stein is telling the truth, he was involved in other frauds, and what's more Levine and Wax participated in those frauds with him." These remarks, coming at the conclusion of a complex and lengthy trial, involving scant evidence against the defendant Reynolds were sufficient to poison the atmosphere and leave the jury with the impression that the government had evidence of other and far worse frauds, and if some of these defendants were involved in some of those frauds, then in all likelihood, so were the others. The risk that such thinking infected the jury is sufficient so that if a new trial is ordered as to Levine, Reynolds should receive the similar consideration.

CONCLUSION

Because this prosecution involved the ex poste facto application of a new standard of criminality, the conviction must be reversed and the indictment dismissed as to the defendant, Reynolds, or in the alternative, a new trial must be ordered as to Reynolds on Count Fourteen, because the errors which occurred at the trial deprived Reynolds of a fair trial. At the retrial, Reynolds should be granted a severance so as to avoid prejudicing the jury by the proof that the stock was manipulated by means of "cash

payoffs" to some defendants. Additionally, the Court should not permit the Government to prove the similar acts involving Diston, and Mobile Homes Ventures against Reynolds, because the prejudicial impact of proving these similar acts outweighs the probitive value of the evidence. This proof also creates a substantial risk of confusion of the issues for a jury and will not aid a jury in determining the issue of intent.

Respectfully Submitted

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Of Counsel.

APPENDIX

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-v-

INDICTMENT

74 Cr.

NORMAN RUBINSON,
SIDNEY STEIN,
ALBERT FEIFFER,
WILLIAM CHESTER,
EDGAR REYNOLDS,
JEROME HASKEL,
LAWRENCE LEVINE,
WALTER WAX,
PHILIP KAYE, and
MICHAEL GARDNER,

Defendants.

- -

COUNT ONE

The Grand Jury charges:

1. From on or about the 1st day of August, 1968, and continuously thereafter up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, NORMAN RUBINSON, SIDNEY STEIN, ALBERT FEIFFER, WILLIAM CHESTER, EDGAR REYNOLDS, JEROME HASKELL, LAWRENCE LEVINE, WALTER WAX, PHILIP KAYE, and MICHAEL GARDNER, the defendants herein, and Saul Weitzman, Louis Larry Hocken, Harry Silber, Arthur Kravetz, Yehuda Weiss and B'Noth Jerusalem, named herein as co-conspirators but not as defendants, and other persons to the Grand Jury known and unknown, unlawfully, wilfully and knowingly did

combine, conspire, confederate and agree together and with each other to commit certain offenses against the United States, to wit, violations of the Securities Act of 1933 and the Securities Exchange Act of 1934 (Sections 77e, 77q, 77x, 78j and 78ff of Title 15, United States Code) and Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission and Sections 1341 and 1343 of Title 18, United States Code.

2. It was a part of said conspiracy that said defendants and co-conspirators unlawfully, wilfully and knowingly would, directly and indirectly, make use of means and instruments of transportation and communication in inter-state and foreign commerce and of the mails to sell securities, to wit, common stock of Stern-Haskell, Inc., at a time when no registration statement as to said securities was in effect with the United States Securities and Exchange Commisiion.

3. It was further a part of said conspiracy that said defendants and co-conspirators unlawfully, wilfully and knowingly in the offer and sale of securities, to wit, common stock of Stern-Haskell, Inc., by the use of means and in-struments of transportation and communications in interstate commerce and by use of the mails, would directly and indirectly (a) employ devices, schemes and artifices to defraud; (b) obtain money and property by means of untrue statements of material facts and omissions to state material facts necessary in order to make the statements made, in the light of the

circumstances under which they were made, not misleading; and (c) engage in transactions, practices and courses of business which operated and would operate as a fraud and deceit upon the purchasers of the common stock of Stern-Haskell, Inc., and upon any and all persons to whom the said defendants and co-conspirators, directly and indirectly, would attempt to sell the aforementioned securities.

4. It was further a part of said conspiracy that said defendants and co-conspirators in connection with the purchase and sale of securities, to wit, common stock of Stern-Haskell, Inc., would, directly and indirectly, use mails to use and emply manipulative and deceptive devices and contrivances in contravention of Rule 10b-5 /1 7 CFR Section 240. 10b-5 7 of the Rules and Regulations of the United States Securities and Exchange Commission.

5. It was further a part of said conspiracy that said defendants and co-conspirators, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, unlawfully, wilfully and knowingly, and for the purpose of executing said scheme and artifice and attempting so to do, would place and cause to be placed in post offices and authorized depositories for mail matter, and would cause to be delivered by mail according

to the direction thereon, certain matter to be sent and delivered by the United States Postal Service.

6. It was further a part of said conspiracy that said defendants and co-conspirators, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, unlawfully, wilfully and knowingly, would transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals and sounds for the purpose of executing said scheme and artifice.

7. Among the means by which the defendants and co-conspirators would and did carry out the said conspiracy were the following:

(a) Defendants NORMAN RUBINSON, SIDNEY STEIN, WILLIAM CHESTER and JEROME HASKELL arranged for the issuance and distribution of 200,000 shares of the common stock of Stern-Haskell, Inc., without the filing by Stern-Haskell, Inc., of a registration statement, prospectus or certified financial statements with the United States Securities and Exchange Commission.

(b) Defendants NORMAN RUBINSON and WILLIAM CHESTER arranged for Stock Transfer Agency, which they controlled, to act as the transfer agent of Stern-Haskell, Inc.

(c) Defendants NORMAN RUBINSON, SIDNEY STEIN, ALBERT FEIFFER, WILLIAM CHESTER, EDGAR REYNOLDS and JEROME HASKELL arranged to own or control over 150,000 of said 200,000 shares of the common stock of Stern-Haskell, Inc.

(d) Defendants NORMAN RUBINSON, WILLIAM CHESTER and JEROME HASKELL arranged for the issuance of an additional 350,000 shares of the common stock of Stern-Haskell, Inc., which would be owned or controlled by themselves.

(e) Defendants NORMAN RUBINSON, SIDNEY STEIN, ALBERT FEIFFER, LAWRENCE LEVINE, WALTER WAX, JEROME HASKELL and MICHAEL GARDNER arranged for the establishment and maintenance of a public market in the common stock of Stern-Haskell, Inc., at artificially inflated, manipulated and fraudulent prices ranging from one dollar per share to over four dollars per share.

(f) Defendants NORMAN RUBINSON, JEROME HASKELL and MICHAEL GARDNER arranged for defendant MICHAEL GARDNER to receive 50,000 shares of the common stock of Stern-Haskell, Inc., at a price of ten cents per share at a time when the market price of said shares was in excess of two dollars per share, in return for the assistance of MICHAEL GARDNER in distributing the common stock of Stern-Haskell, Inc. to the public at artificially inflated, manipulated and faudulent prices.

(g) Defendants NORMAN RUBINSON, SIDNEY STEIN, and ALBERT FEIFFER made secret cash payments to defendants LAWRENCE LEVINE, PHILIP KAYE and WALTER WAX in return for the distribution by defendants LAWRENCE LEVINE, PHILIP KAYE and WALTER WAX of the common stock of Stern-Haskell, Inc., to the public at artificially inflated, manipulated and fraudulent prices.

(h) Defendants LAWRENCE LEVINE, WALTER WAX and PHILIP KAY arranged for recommendations to be made to members of the investing public to purchase the common stock of Stern-Haskell,

Inc., without disclosing said secret cash payments, or said defendants' activities in connection with the marketing of said securities, or the facts that the prices of said securities were artificially inflated, manipulated and fraudulent, or other facts which would have been disclosed in a prospectus if one had been issued, such undisclosed facts being material facts, necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading.

(i) Defendants NORMAN RUBINSON, SIDNEY STEIN, ALBERT FEIFFER, WILLIAM CHESTER, EDGAR REYNOLDS, LAWRENCE LEVINE, PHILIP KAYE, WALTER WAX and MICHAEL GARDNER directly and indirectly sold over 75,000 shares of the common stock of Stern-Haskell, Inc., to the public at artificially inflated, manipulated and fraudulent prices, at a time when no registration statement was in effect as to said securities.

(j) Defendants NORMAN RUBINSON, SIDNEY STEIN, ALBERT FEIFFER, WILLIAM CHESTER, EDGAR REYNOLDS, JEROME HASKELL, LAWRENCE LEVINE, PHILIP KAYE, WALTER WAX and MICHAEL GARDNER, through the activities described above in this paragraph, would and did cause members of the investing public to lose substantial amounts of money.

OVERT ACTS

In furtherance of said conspiracy, and to effect the objects thereof, the following overt acts were committed within the Southern District of New York and elsewhere:

1. In or about May and June, 1969, defendants NORMAN RUBINSON and SIDNEY STEIN paid a quantity of cash to defendant

PHILIP KAYE in the vicinity of 360 East 72nd Street, New York, New York.

2. In or about May and June, 1969, defendant LAWRENCE LEVINE received a quantity of cash.

3. In or about May and June, 1969, defendant WALTER WAX received a quantity of cash.

4. On or about June 6, 1969, defendants SIDNEY STEIN, WILLIAM CHESTER and EDGAR REYNOLDS met in the vicinity of 360 East 72nd Street, New York, New York.

5. On or about June 6, 1969, defendant ALBERT FEIFFER endorsed a check from Tessel, Paturick & Ostrau, Inc. in the amount of approximately $11,941.75.

6. On or about June 13, 1969, defendant ALBERT FEIFFER endorsed a check from Tessel, Paturick & Ostrau, Inc. in the amount of approximately $10,294.94.

7. On or about June 9, 1969, defendant LAWRENCE LEVINE made a transaction in the common stock of Stern-Haskell, Inc.

8. On or about June 12, 1969, defendant WALTER WAX recommended the purchase of the common stock of Stern-Haskell, Inc. to a customer.

9. In or about July 1969, defendants NORMAN RUBINSON and JEROME HASKELL met in New York, New York.

10. On or about July 18, 1969, defendant MICHAEL GARDNER received 50,000 shares of the common stock of Stern-Haskell, Inc.

(Title 18, United States Code, Section 371.)

COUNTS TWO THROUGH SIX

The Grand Jury further charges:

1. On or about the dates hereinafter set forth in Counts Two through Six, in the Southern District of New York, NORMAN RUBINSON, SIDNEY STEIN, ALBERT FEIFFER, WILLIAM CHESTER, JEROME HASKELL, LAWRENCE LEVINE, PHILIP KAYE, WALTER WAX, and MICHAEL GARDNER, the defendants, unlawfully, wilfully and knowingly, in the offer and sale of securities, to wit, common stock of Stern-Haskell, Inc., by the use of means and instruments of transportation and communications in interstate commerce and by use of the mails, (a) did employ devices, schemes and artifices to defraud; (b) did obtain money and property by means of untrue statements of material facts and omissions to state material facts necessary in order to make the statements made in the light of the circumstances under which they made, not misleading; and, (c) did engage in transactions, practices and courses of business which would operate and did operate as a fraud and deceit upon purchasers of said securities and other persons whom the defendants and co-conspirators directly and indirectly, attempted to induce to purchase said securities.

2. The allegations contained in paragraph 7 of Count One of this Indictment are repeated and realleged as though fully set forth herein, as constituting and describing some of the means by which said defendants committed the offenses charged in Counts Two through Six.

3. On or about the dates hereafter set forth, in Counts Two through Six, among others, in the Southern District of New York and elsewhere, NORMAN RUBINSON, SIDNEY STEIN, ALBERT FEIFFER, WILLIAM CHESTER, JEROME HASKELL, LAWRENCE LEVINE, PHILIP KAYE, WALTER WAX and MICHAEL GARDNER, the defendants, unlawfully, wilfully, and knowlingly did use, and cause to be used, the mails pursuant to and in furtherance of the scheme alleged in paragraph one of these counts, by causing to be sent through the mails, to the addresses set forth below, the matter set forth below:

COUNT	DATE	ADDRESSEE	MATTER
2	June 6, 1969	ALLAN FEIFFER 360 East 72nd St. New York, New York	Confirmation of sale of 4000 shares of the common stock of Stern-Haskell, Inc.
3	June 6, 1969	ALBERT FEIFFER 360 East 72nd St. New York, New York	Confirmation of sale of 2000 shares of the common stock of Stern-Haskell, Inc.
4	June 12, 1969	ALLAN FEIFFER 360 East 72nd St. New York, New York	Confirmation of sale of 2000 shares of the common stock of Stern-Haskell, Inc.
5	June 12, 1969	ALBERT FEIFFER 360 East 72nd St. New York, New York	Confirmation of sale of 2000 shares of the common stock of Stern-Haskell, Inc.
6	June 13, 1969	ALLAN FEIFFER 360 East 72nd St. New York, New York	Confirmation of sale of 2000 shares of the common stock of Stern-Haskell, Inc.

(Title 15, United States Code, Sections 77q and 77x and Title 18, United States Code, Section 2).

COUNTS SEVEN AND EIGHT

The Grand Jury further charges:

1. On or about the dates hereinafter set forth in Counts Seven and Eight, in the Southern District of New York, the defendants NORMAN RUBINSON, SIDNEY STEIN, ALBERT FEIFFER, WILLIAM CHESTER, JEROME HASKELL, LAWRENCE LEVINE, WALTER WAX, PHILIP KAYE, and MICHAEL GARDNER, unlawfully, wilfully and knowingly did, directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails, use and employ in connection with the purchase and sale of securities, to wit, common stock of Stern-Haskell, Inc., manipulative, and deceptive devices and contrivances in contravention of Rule 10b-5 (17 CRF Section 240.10b-5) of the rules and regulations of the United States Securities and Exchange Commisiion.

2. The allegations contained in Paragraph 7 of Count One of this Indictment are repeated and realleged as though fully set forth herein, as constituting and describing some of the means by which said defendants committed the offenses charged in Counts Seven and Eight.

3. On or about the dates hereinafter set forth in Counts Seven and Eight in the Southern District of New York, the defendants NORMAN RUBINSON, SIDNEY STEIN, ALBERT FEIFFER, WILLIAM CHESTER, JEROME HASKELL, LAWRENCE LEVINE, WALTER WAX, PHILIP KAYE, and MICHAEL GARDNER, unlawfully, wilfully, and

knowingly did use and cause to be used means and instrumentalities of interstate commerce and the mails pursuant to and in furtherance of the scheme alleged in paragraph 1 of these counts, by sending and causing to be sent to the addresses hereinafter set forth the matter hereinafter set forth:

COUNT	DATE	ADDRESSEE	MATTER
7	June 12, 1969	Lena Dundish 522 Ocean Avenue Brooklyn, New York	Confirmation of the purchase of 200 shares of the common stock of Stern-Haskell, Inc.
8	June 11, 1969	Paul E. Schuchalter and Mrs. Dorothy Schuchalter 30 First Street Suffern, New York	Confirmation of the purchase of 200 shares of the common stock of Stern-Haskell, Inc.

(Title 15, United States Code, Sections 78j and 78ff; and Title 18, United States Code, Section 2; and Title 17, Code of Federal Regulations, Section 240.10b-5)

COUNTS NINE THROUGH THIRTEEN

The Grand Jury further charges:

1. On or about the dates hereinafter set forth in Counts Nine through Thirteen in the Southern District of New York, defendants NORMAN RUBINSON, SIDNEY STEIN, ALBERT FEIFFER, WILLIAM CHESTER, JEROME HASKELL, LAWRENCE LEVINE, WALTER WAX, PHILIP KAYE and MICHAEL GARDNER unlawfully, wilfully and knowingly did devise and intend to devise a scheme to defraud purchasers of the common stock of Stern-Haskell, Inc., and to obtain money and property from said persons by means of false and

and fraudulent pretenses, representations and promises and for the purpose of executing said scheme and artifice to defraud and attempting so to do, did cause to be placed in post offices and authorized depositories for mail matter and did cause to be delivered by mail, according to the directions thereon, certain matter to be sent and delivered by the United States Postal Service, as more particularly set forth below.

2. The allegations contained in Paragraph 7 of Count One of this Indictment are repeated and realleged as though fully set forth herein as constituting and describing some of the means by which said defendants committed the offenses charged in Counts Nine through Thirteen herein.

3. On or about the dates hereinafter set forth, in Counts Nine through Thirteen, in the Southern District of New York, said defendants unlawfully, wilfully and knowingly did cause to be placed in post offices and authorized depositories for mail, and did cause to be delivered by mail by the United States Postal Service, according to the directions thereon, to the addresses hereinafter set forth, the matter hereinafter set forth:

COUNT	DATE	ADDRESSEE	MATTER
9	June 16, 1969	Prudential 1313 N.E. 125th St. Miami, Florida	Confirmation of the purchase of 150 shares of the common stock of Stern-Haskell, Inc.
10	July 9, 1969	Prudential 1313 N.E. 125th St. Miami, Florida	Confirmation of the purchase of 425 shares of the common stock of Stern-Haskell, Inc.

COUNT	DATE	ADDRESSEE	MATTER
11	August 21, 1969	Lena Dundish 522 Ocean Avenue Brooklyn, New York	Confirmation of the purchase of 200 shares of the common stock of Stern-Haskell, Inc.
12	August 22, 1969	Myron Altschuler 12 Roosevelt Terrace Bayonne, New Jersey	Confirmation of the purchase of 2000 shares of the common stock of Stern-Haskell, Inc.
13	August 25, 1969	B'Noth Jerusalem 157 Hewes Street Brooklyn, New York	Confirmation of the sale of 5000 shares of the common stock of Stern-Haskell, Inc.

(Title 18, United States Code, Sections 1341 and 2).

COUNT FOURTEEN

The Grand Jury further charges:

On or about June 6, 1969, in the Southern District of New York and elsewhere, defendants NORMAN RUBINSON, SIDNEY STEIN, ALBERT FEIFFER, WILLIAM CHESTER and EDGAR REYNOLDS unlawfully, wilfully and knowingly, directly and indirectly, caused to be carried by means and instruments of transportation in interstate commerce from in or about Miami, Florida to in or about Brooklyn, New York, for the purpose of sale and delivery after sale, securities, to wit, common stock of Stern-Haskell, Inc., when no registration statement as to such securities was in effect with the United States Securities and Exchange Commission.

(Title 15, United States Code, Sections 77e and 77x; Title 18, United States Code, Section 2.)

COUNTS FIFTEEN THROUGH EIGHTEEN

The Grand Jury further charges:

On or about the dates hereinafter set forth in

Counts Fifteen through Eighteen, in the Southern District of New York, defendants NORMAN RUBINSON, ALBERT FEIFFER, SIDNEY STEIN, WILLIAM CHESTER and EDGAR REYNOLDS unlawfully, wilfully and knowingly, directly and indirectly, made use of the mails and caused the mails to be used to sell securities, to wit, common stock of Stern-Haskell, Inc., in that said defendants did cause the mails to be used to send to the addresses hereinafter set forth, the matter hereinafter set forth, when no registration statement as to such securities was in effect with the United States Securities and Exchange Commission:

COUNT	DATE	ADDRESSEE	MATTER
15	June 19, 1969	B'Noth Jerusalem 157 Hewes Street Brooklyn, New York	Confirmations of the sale of 8000 shares of the common stock of Stern-Haskell, Inc.
16	August 22, 1969	B'Noth Jerusalem 157 Hewes Street Brooklyn, New York	Confirmation of the sale of 13,500 shares of the common stock of Stern-Haskell, Inc.
17	August 25, 1969	Richard M. Warren and Rose M. Warren 2 Watson Avenue North Haven, Connecticut	Confirmation for the purchase of 200 shares of the common stock of Stern-Haskell, Inc.
18	August 28, 1969	Sylvia Lynn Malek and Rochelle B. Malek 1753 Michigan Ave. Miami Beach, Florida	Confirmation of the purchase of 300 shares of the common stock of Stern-Haskell, Inc.

(Title 15, United States Code, Section 77e and Title 18, United States Code, Section 2.)

COUNTS NINETEEN AND TWENTY

The Grand Jury further charges:

1. On or about the dates hereinafter set forth in Counts Nineteen and Twenty, in the Southern District of New York, defendants NORMAN RUBINSON, WILLIAM CHESTER and MICHAEL GARDNER unlawfully, wilfully and knowingly did devise and intend to devise a scheme to defraud recipients of the common stock of Stern-Haskell, Inc., and to obtain money and property from said persons by means of false and fraudulent pretenses, representations and promises, and for the purpose of executing said scheme and artifice to defraud and attempting so to do, did transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce signs, signals and sounds, as more particularly set forth below.

2. The allegations contained in Paragraph 7 of Count One of this Indictment are repeated and realleged as though fully set forth herein as constituting and describing some of the means by which said defendants committed the offenses charged in Counts Nineteen and Twenty.

3. On or about the dates hereinafter set forth in Counts Nineteen and Twenty in the Southern District of New York, said defendants unlawfully, wilfully and knowingly did transmit and cause to be transmitted by

means of wire communication in interstate and foreign commerce signs, signals and sounds between the parties hereinafter set forth:

COUNT	DATE	PARTIES
19	July 24, 1969	Bernard H. [illegible]aLone New [illegible]ork, [illegible]ew York and John Carroll, Montreal, Canada.
20	December 30, 1969	Defendant MICHAEL GARDNER, New York, New York and John Carroll, Montreal, Canada.

(Title 18, United States Code, Sections 1343 and 2.)

FOREMAN

PAUL J. CURRAN
United States Attorney

C. Form No. 100

RIMINAL DOCKET

JUDGE MOTLEY

74 CR. 573

TITLE OF CASE

UNITED STATES OF AMERICA,

- v -

1 NORMAN RUBINSON, all cts.
2 SIDNEY STEIN,-1-18
3 ALBERT FEIFFER,-1-18
4 WILLIAM CHESTER,-all cts.
5 EDGAR REYNOLDS,-1,14-18.
6 JEROME HASKELL,-1-13.
7 LAWRENCE LEVINE,-1-13.
8 WALTER WAX,-1-13.
9 PHILIP KAYE, and-1-13.
10 MICHAEL GARDNER,-1-13, 19&20.

Defendants.

ATTORNEYS

For U.S.:

Frank H. Wohl, AUSA
264-6292

For Defendant:

ABSTRACT OF COSTS	AMOUNT		CASH RECEIVED AND DISBURSED				
			DATE	NAME	RECEIVED	DISBURSED	
4)							
ine,			4/27/75	Lawrence J.	10,000 -		
lerk, 8 6 10 2 9 1 3			7/1/75	Treas.		10,000 -	
larshal, 4,5,7				(Escrow Acct).			
ttorney,							
15, 18							
371,77q,78j;1343							
nsp. to viol. Securities Laws(Ct.1)							
curities fraud.(Cts.2-18)							
re fraud.(Cts.19 & 20)							
Twenty Counts)							

DATE	PROCEEDINGS
4-74	Filed indictment.
-17-74	Deft. Rubinson appears (no Atty.). Court directs a plea of N/G be entered 10 days for Motions. Bail fixed by court at $20,000 Personal Recognizance Bond. Deft. to be photographed & fingerprinted. Bail limits extended Continental United States and Dominican Repuplic, also to notify U.S. Atty. 48 hours before leaving U.S. Knapp,J.
	Deft. Feiffer appears (Atty.) present Deft, pleads N/G. Bail fixed by court at $20,000 Personal Recognizance Bond. Deft. to be Photographed and fingerprinted. Bail limits to extend to Continental U.S. and Canada. Notify U.S. Atty. 48 hours before leaving the country. Knapp,J.
	Deft.Chester present (No Atty.) Deft. pleads N/G. Bail fixed by court at

Over

DATE	PROCEEDINGS	CLERK'S FEES PLAINTIFF		DEFENDANT	
	$20,000 Personal Recognizance Bond. Deft. to be Photographed and Fingerprinted. Deft. to surrender passport. Bail limits extend to Continental U.S. Knapp,J.				
	Deft. Reynolds present (no Atty.). Court directs a plea of N/G be entered, Bail fixed by court at $20,000 Personal Recognizance Bond. Deft. to be Photoghraphed and Fingerprinted. Deft. to surrender passport. Bail limits extended to Continental U.S. Knapp.				
	Deft, Levine, Wax, Haskell & Kaye appear (Atty. Present) Deft's. plead N/G. Bail fixed by court at $20,000 Personal Recognizance Bond for each Deft. Each Deft. to be Photographed and Fingerprinted. Bail limits to extend to the Continental U.S. for each Deft. Knapp,J.				
	Deft. Gardner present (Atty. Present. Deft. pleads N/G. Bail fixed by court at $20,000 Personal Recognizance Bond. Deft. to be Photographed & Fingerprinted. Deft. to surrender his passport. Bail limits to extend Continental U.S. and Canada. Must notify U.S. Atty. 48 hours before leaving. the U.S. Knapp,J.				
	Case assigned to Judge Motley for all purposes.				
6-17-74	N.RUBINSON - Filed unsecured bond in amt.of $20,000.				
6-17-74	A.M.FEIFFER - Filed unsecured bond in amt.of $20,000.				
6-17-74	W. CHESTER - Filed unsecured bond in amt.of $20,000.				
6-17-74	E.M.REYNOLDS - Filed unsecured bond in amt. of $20,000.				
6-17-74	J.HASKELL - Filed unsecured bond in amt.of $20,000.				
6-17-74	L.LEVINE - Filed unsecured bond in amt.of $20,000.				
6-17-74	W.WAX - Filed unsecured bond in amt.of $20,000.				
6-17-74	P.KAYE - Filed unsecured bond in amt.of $20,000.				
6-17-74	M.GARDNER - Filed unsecured bond in amt.of $20,000.				

(See page 2a for Atty's)

DATE	Appearance Sheet	PROCEEDINGS
6-19-74	WALTER WAX - Filed notice of appearance by Sol M.Stendig 111 B'Way NYC 248-3120	
6-19-74	PHILIP KAYE - Filed notice of appearance by Morrison,Paul Stillman & bailey 110 East 59th St, NYC 593-0100	
6-19-74	ALBERT FEIFFER - Filed notice of appearance by Morton S.Robson 450 Park Ave. NYC 371-3900	
6-19-74	JEROME HASKELL - Filed notice of appearance by Emanuel Thebnerm 369 Lexington Ave. NYC 687-3633	
6-19-74	MICHAEL GARDNER - Filed notice of appearance by Morton Berger 54 Durham Road White Plains,N.Y.10607 (914)948-5908	
6-19-74	LAWRENCE LEVINE - Filed notice of appearance by Jay W.Kaufmann 111 B'Way NYC DI 9-3030	
6-24-74		JEROME HASKELL- Filed Affidavit & Notice of Motions for an order purs to Rule 12 FRCP., dismi ssing Counts One through Thirteen on the grounds specified in the annexed motion to dismiss etc. as indicated before Motley, J. on 7-15-74.
6-24-74		JEROME HASKELL- FILED MOTION OF DEFT. HASKELL FOR PRODUCTION AND INSPECTION OF GRAND JURY MINUTES.
6-24-74		JEROME HASKELL- FILED MOTION OF DEFT HASKELL to dismiss Counts (1) through (13) of the indictment.
6-24-74		JEROME HASKELL- FILED MOTION OF DEFT. HASKELL for discovery and inspection and for the production of documentary evidence purs to Rule 16(a) (1) and (3) and 16 (b) of the Federal Rules of Criminal Procedure.
6-24-74		JEROME HASKELL-Filed Motion of deft Haskell for Bill of Particulars purs to Rule 8 (f of the F.R.C.P.
6-24-74		JEROME HASKELL - Filed memorandum in support of deft Haskell's motions.

NO FURTHER ENTRIES

— See PAG3 —

DATE	PROCEEDINGS
6-24-74	S.STEIN - Deft present (No atty.) Court directs a plea of Not Guilty be entered. 10 days for motions. Deft to F/P & R.O.R. Bail limits to extend the continental U.S....Notify U.S.Atty. 5 days in advance if he is leaving the U.S.....Knapp, J.
6-26-74	W.K.CHESTER - Filed notice of motion to dismiss the indictment.
7-2-74	ALBERT FEIFFER - Filed Consent Order extending bail limits to Dominican Republic up to 7-7-74. Motley, J.
7-3-74	EDGAR REYNOLDS- Filed defts Financial Affidavit.
8-12-74	WALTER WAX - Filed consent to change of atty's LAWRENCE LEVINE
8-26-74	J.J.HASKELL - Filed supplemental motions for dismissal of the indictment.
8-28-74	ALBERT FEIFFER - Filed affdvt.& ~~order-to-show-c~~ notice of motion to dismiss the indictment....Ret.9-3-74..
8-30-74	MICHAEL GARDNER - Filed motion for bill of particulars.
8-30-74	MICHAEL GARDNER -Filed memorandum in support of bill of particulars
8-30-74	Michael GARDNER - Filed motion to strike surplusage
8-30-74	MICHAEL GARDNER - Filed memorandum in support of motion to strike.
9-3-74	W.K.CHESTER - Filed motion to dismiss indictment for pre-indictment delay
9-3-74	W.K.CHESTER - Filed motion to dismiss because prosecutor misled grand jury
9-3-74	W.K.CHESTER - Filed motion for appointment of an atty.
9-3-74	W.K.CHESTER - Filed motion for discovery and inspection
9-3-74	W.K.CHESTER - Filed motion for production of documents
9-3-74	" " " " Filed motion for change of venue
9-3-74	" " " " Filed motion to strike
9-3-74	" " " " Filed motion for bill of particulars
9-3-74	" " " " Filed motion to dismiss pursuant to rule 12
10-11-74	Filed transcript of record of proceedings, dated 6-27-74
10-17-74	Filed Affidavit & Notice of Motion by defts. W. Wax and L. Levine, for an order requiring the government to serve and file a Bill of Particulars etc, as indicated, rtble before Motley, J. on date and place fixed by the Court.
10-17-74	Filed memorandum in support of the pre-trial motions of defts. Wax and Levine.
11-1-74	N.RUBINSON - Filed affdvt.of service by mail.
11-11-74	W.K.CHESTER - Filed motion to adopt other defts pretrial motions etc.
11-15-74	W.K.CHESTER - Filed memo endorsed on motion filed 11-11-74...SO ordred...Motley,J.
11-27-74	NORMAN RUBENSON ET.AL. - Filed Govt's notice of readiness for trial...

D. C. 109 Criminal Continuation Sheet

— OVER —

DATE	PROCEEDINGS
11-27-74	Filed stip. and order enlarging bail limits for JEROME J.HASKELL. /EDGAR REYNOLDS
12-2-74	Filed affdvt. of Frank H.Wohl,AUSA in opposition to motion to dismiss.
12-2-74	Filed memorandum of the U.S.in opposition to defts pre-trial motions
12-2-74	Filed affdvt.of Frank H.Wohl,AUSA in opposition to motion for dismissal due to pre-indictment delay
12-18-74	N.RUBINSON, ET.AL. - Filed bill of particulars.
12-17-74	Filed transcript of record of proceedings, dated 6-17-74
12-20-74	N.RUBINSON - Hearing on representation of counsel begun & concluded..Deft to turn over passport to the U.S.Atty.....Motley, J.
12-23-74	Filed transcript of record of proceedings, dated Dec. 5, 6, 1974
12-27-74	MICHAEL GARDNER - Filed affdvt. & notice of motion for an order dismissing the indictmen and order for immediate trial...Ret.1-3-75
12-30-74	WILLIAM K.CHESTER - Filed motion to dismiss on grounds of illegality of the extension of the Grand Jury
1-7-75	MICHAEL GARDNER - Filed motion to dismiss pursuant to rule 12
1-7-75	MICHAEL GARDNER - Filed memorandum of Law in support of above motion to dismiss.
1-7-75	JEROME HASKELL - Filed notice of motion to dismiss on ground of alleged grand jury extension.
1-7-75	Filed supplemental bill of particulars
1-7-75	JEROME HASKELL: Filed memorandum in support of his motion to dismiss the indictment.
1-7-75	SIDNEY STEIN - Deft & Atty.present..Withdraws plea of not guilty...PLEADS GUILTY to 1,7 & 14..Pre-sentence investigation ordered..Sentence adj'd to 3-18-75 11 a.m. Deft cont'd. on present bail (R.O.R.) Bail limits extended to the continental U.S.....Motley, J.
1-10-75	S.STEIN - Filed petition to enter plea of GUILTY...So ordered Motley,J.
1-14-75	PHILIP KAYE, Charles Stillman of counsel, Deft withdraws plea of not guilty, PLEADS GUILTY to count 1...P.S.I. ordered. Sentence adjd to March 18,1975..Deft.R.O.R. MOTLEY, J.....
1-17-75	Filed memorandum opinion #41752 Re Grand Jury..On Jan.10-75 the court denied all deft's motions to dismiss the indictment on the theory that the grand jury returned indictment during a period it had been unlawfully extended***Accordingly defts motions based on multiple special grand jueiwa and impermissible extensions were also denied.....Motley,J....Mailed notice

—Cont'd on PAGE 5—

DATE	PROCEEDINGS
1-29-75	Filed true copy of U.S.C.A.order that petition for writ of mandamus and prohibition be and it hereby is denied.
1-22-75	N.RUBINSON - Jury trial begun before Motley,J.
	A.FEIFFER
	W.CHESTER
	E.REYNOLDS
	J.HASKELL
	L.LEVINE
	W.WAX
	M.GARDNER
1-23-75	Trial Cont d.
1-24-75	Trial cont d.
1-27-75	Trial cont d.
1-30-75	Trial cont d.
1-31-75	Trial cont d.
2-3-75	Trial cont d.
2 4-75	Trial cont d.
2-5-75	Trial cont d.
2-6-75	Trial cont d.
2-7-75	Trial cont d.
2 10-75	Trial cont d.
2-14-75	EDGAR REYNOLDS - Filed order to Marshal to serve subpoenas under criminal justice act Motley,J.....copies given to Marshal....
2-11-75	Trial cont'd.
2-12-75	Trial cont'd.
2-13-75	Trial cont'd.
2-14-75	Trial cont'd.
2-18-75	Trial cont'd.
2-19-75	Trial cont'd
2-20-75	Trial cont'd. AND 2-21-75 Trial cont'd.
2-24-75	Trial cont'd.
2-25-75	Trial cont'd.
2-26-75	Trial cont'd.
2-27-75	Trial cont'd.
3-3-75	N. RUBINSON: FILED ONE (1) Manila Envelope Sealed and Impounded and placed in vault in Rm 602. By Order of Motley, J.
3-5-75	Filed transcript of record of proceedings, dated JAN. 8, 1975
3-5-75	Filed transcript of record of proceedings, dated JAN. 8, 9, 10, 1975
3-5-75	Filed transcript of record of proceedings, dated JAN. 10, 1975

D. C. 199 Criminal Continuation Sheet

— See over —

DATE	PROCEEDINGS
3-6-75	Filed order that pursuant to 18 U.S.C.6002 and 6003 that Yahuda Weiss is ordered and compelled to give testimony etc.....Motley, J....
2-28-75	Trial Cont'd.
3-3-75	Trial Cont'd.
3-4-75	Trial Cont'd.
3-5-75	Trial cont'd.
3-6-75	Trial Cont'd.
3-7-75	Filed one envelope ordered sealed & impounded and placed in vault Room 602..Motley,J.
3-10-75	MICHAEL GARDNER - Filed memorandum of law.
3/10/75	Filed transcript of record of proceedings, dated 1-27-75
3/10/75	Filed transcript of record of proceedings, dated 2-14-75
3/10/75	Filed transcript of record of proceedings, dated 1-9-75
3/10/75	Filed transcript of record of proceedings, dated 1-14-75
	~~Filed transcript of record of proceedings, dated~~
3-7-75	Trial cont'd.
3-10-75	Trial cont'd.
3-11-75	Trial cont'd.
3-12-75	Trial cont'd.
3-13-75	Trial cont'd.
3-14-75	Trial cont'd.
3-17-75	Trial cont'd.
3-18-75	Trial cont'd...Govt's motion to Dismiss Counts 20 as to RUBINSON & CHESTER Granted.
3-20-75	W.WAX - Filed memorandum in opposition to introduction of evidence of a prior L.LEVINE- consistent statement....
3-19-75	Trial cont'd.
3-20-75	Trial cont'd.
3-21-75	Trial cont'd.Jury deliberations begun at 8:30 P.M.
3-22-75	Trial cont'd. deliberations cont'd.
3-23-75	Trial cont'd. deliberations cont'd. Jury returns a verdict...Defts. JEROME HASKELL, MICHAEL GARDNER, WALTER WAX NOT GUILTY on all Counts... NORMAN RUBINSON Guilty on Cts.1 & 14.....ALBERT FEIFFER Guilty on 1,3 & 14.... LAWRENCE LEVINE Guilty on Ct.1.....WILLIAM CHESTER Guilty on Ct.14....Edgar REYNOLDS Guilty on ct.14....P.S.I. ordered as to all deft's.found guilty RUBINSON - Bail cont'd. $20,000 P.R.B. Sent.5-15-75 11 am Bail limits extended to Miami,Fla. & N.Y. only. FEIFFER-Bail cont'd $20,000 P,R.B. Sent. 5-15-75 11 a.m. Bail limits extended to Miami,Fla. & N.Y. only.....LEVINE-Bail cont'd.$20,000 P. R.B. Sent.5-15-75 11 a.m. Limits extended Nevada & N.Y. only

(Cont'd. on Page 7)

DATE	PROCEEDINGS
3-23-75	(Cont'd.from page 6....WILLIAM CHESTER Bail cont'd. $20,000 P.R.B. Sent.adj'd to 5-15-75 11 a.m. bail limits extended to Miami,Fla. & N.Y. only... EDGAR REYNOLDS...Bail cont'd at $20,000 P.R.B. Sent. adj'd to 5-15-75 11 a.m. bail limits extended to Miami,Fla. & N.Y. only. Jury discharged Court adjd to 4 P.M. trial concluded....MOTLEY, J.....
3-25-75	Filed requested additional instructions...dtd.3-22-75 6 P.M.
3-31-75	P.KAYE - Filed one manila envelope ordered sealed impounded and placed in vault Room 602...
3-31-75	S.STEIN - Filed one manila envelope ordered sealed impounded and placed in vault Room 602...
3-28-75	SIDNEY STEIN - Filed Judgment(# 75,272)Atty.Leonard Glass,present..The deft.is committed for imprisonment for a period of FIVE YEARS on count 1 and FINED $10,000....TWO YEARS on count 7 and FINED $10,000...Prison sentence on cts. 1 and 7 to run concurrently with each other...FIVE YEARS on count 14 and FINED $5,000...Prison sentence on Ct.14 to run CONSECUTIVELY with sentence imposed on count 1...TOTAL fines of $25,000 to be paid or deft is to stand committed until the fines are paid or he is otherwise discharged according to law...Cts.2,3,4,5,6,8,9,10,11,12,13,15,16,17 and 18 are dismissed on motion of deft's counsel with the consent of the Govt..,MOTLEY, J.....
3-28-75	PHILIP KAYE - Filed Judgment(Atty.Charles Stillman,present)the deft is committed for imprisonment for a period of ONE YEAR and ONE DAY...Cts.2,3,4,5,6,7,8,9, 10,11,12 and 13 are dismissed on motion of defts counsel with the consent of the Govt.....Motley, J.....Ent.3-31-75
4-1-75	N.RUBINSON, ET.AL.-Filed Govt's proposed examination of prospective jurors...
~~xxxxxx~~ 4-1-75	Filed memorandum of law in support of defts Wax and Levine's motion to dismiss..
4-1-75	Filed transcript dtd. 6-27-74.
4-1-75	E.REYNOLDS - Filed motion for discovery and inspection and bill of partitulars.
4-1-75	W.WAX L.LEVINE - Filed proposed examination on the voir dire..
4-1-75	M.GARDNER - Filed memorandum in support of objection to certain evidence...
4-1-75	E.REYNOLDS - Filed notice of motion to dismiss the indictment.
4-1-75	E REYNOLDS - Filed notice of motion to dismiss for prosecutorial misconduct etc.
4-1-75	E.REYNOLDS - Filed memorandum of law.
4-2-75	P. KAYE — [illegible] entered return [illegible] delivered to 7-D.Hc 7h.YC-
4-24-75	Filed transcript of record of proceedings, dated 12-20-74
5-1-75	WILLIAM CHESTER - Filed post motion to strike jury verdict...
5-1-75	WILLIAM CHESTER - Filed defts request for court assigment of appeal atty.

D. C. 109 Criminal Continuation Sheet

— See PAGE 8 —

DATE	PROCEEDINGS
5-2-75	NORMAN RUBINSON - Filed notice of motion for an order pursuant to Rule 29(c) setting aside the jury verdict..Or for a new trial etc. Ret.5-15-75 at 11A.M.
5-2-75	LAWRENCE LEVINE - Filed notice of motion for an order setting aside the jury verdict Or for a new trial.....Ret.5-15-75...
5-14-75	Filed transcript of record of proceedings, dated JAN. 22, 23, 24, 30, 31, 1975
5-14-75	Filed transcript of record of proceedings, dated Feb. 3, 4, 5, 6, 1975
5-14-75	Filed transcript of record of proceedings, dated Feb. 13, 18, 19, 20, 1975
5-14-75	Filed transcript of record of proceedings, dated Feb. 7, 10, 11, 12, 1975
5-14-75	Filed transcript of record of proceedings, dated Feb. 21, 24, 25, 26, 1975
5-14-75	Filed transcript of record of proceedings, dated Feb 27, 28, MAR. 3, 4, 1975
5-14-75	Filed transcript of record of proceedings, dated MAR. 5, 6, 7, 10, 1975
5-14-75	Filed transcript of record of proceedings, dated MAR. 11, 12, 13, 14, 1975
5-14-75	Filed transcript of record of proceedings, dated MAR. 17, 18, 19, 20, 1975
5-14-75	Filed transcript of record of proceedings, dated MAR. 21, 22, 23, 1975
May 15-75	NORMAN RUBINSON: Filed notice of appeal to USCA from judgment of May 15, 1975. Mailed copies to Norman Rubinson at 22N. Hibiscus Drive, Miami Beach, Fla. & U.S. Atty.
5-15-75	NORMAN RUBINSON - Filed Judgment(Atty.Thomas A.Andrews,present)The deft. is committed for imprisonment for a period of THREE YEARS on each of counts 1 and 14 to run concurrently with each other..Bail pending appeal fixed at $30,000. cash or surety..The court recommends commitment at Eglin,A.F.B. in Florida. ...Motley,J. Ent.5-20-75----------
5-15-75	ALBERT PEIFFER - Filed Judgment(Atty.Morton Robson,present)The deft is sentenced to TWO YEARS on each of Cts.1,3 and 14 to run concurrently with each other, EXECUTION OF SENTENCE SUSPENDED, deft placed on probation for THREE YEARS subject to the standing probation order of this court, probation to commence upon expiration of period deft is now serving in indictment (73 Cr.421) imposed on June 21, 1973.... Special conditions of probation..Deft not to engage in any type stock transaction during probationary period....MOTLEY, J.....Ent.5-20-75------
5-15-75	WILLIAM CHESTER - Filed Judgment(Without counsel)the court advised deft of right to counsel,and deft waived assistance of counsel..The deft is sentenced to THREE YEARS, EXECUTION OF SENTENCE SUSPENDED. Deft placed on probation for THREE YEARS, subject to the standing probation order of this Court...Special conditions of probation deft not to engage in any type of stock transactions during probationary period....MOTLEY, J.....Ent.5-20-75-----

-Cont'd.on page 9-

DATE	PROCEEDINGS
5-15-75	EDGAR REYNOLDS - Filed Judgment(Atty.Dave Keegan,present)The deft is sentenced to THREE YEARS, EXECUTION OF SENTENCE SUSPENDED. Deft placed on THREE YEARS probation subject to the standing probation order of this Court...Special conditions of probation deft not to engage in any type of stock transactions during probationary period.....Probation stayed pending appeal....MOTLEY,J.. Ent.5-20-75----------
5-16-75	N.RUBINSON - Atty's present.Hearing held and concluded - Deft cont'd. on bail pending appeal providing he post deed to house and $10,000 by 4 p.m. Tuesday May 20,1975..Deft to remain within the juriadiction of the Court until bond procedures have been approved....Motley,J,...
5-20-75	Filed Affirmation of Ch. J Edelstein, dated January 9-75, regarding Special Grand Jury proceedings, etc.
5-20-75	Filed Affidavit of Shirah Neiman, Assist. U.S. Attorney, dtd:January 9-75, in support of Government's contention that the April 1972 Special Grand Jury #1 was an Organized Crime Control Act Special Grand Jury and thus extendable pursuant to the provisions of 18 U.S.C.sect. 3331 (a).
5-20-75	Filed Affidavit of Myles J. Ambrose, dated January 8-75, in support of Government's contention that the April 1972 Special Grand Jury #1 is a "special grand jury" within the meaning of the Organizwd Crime Control Act of 1970.
5-20-75	Filed Affidavit of Andrew J. Maloney, dated January 9-75, in support of Government's contention that the April 1972 Special Grand Jury #1 is a "special grand jury", etc.
5-20-75	Filed Affidavit of Frank H. Wohl, Assist. U.S. ATTorney, dated January 9-75, in opposition to the motions of defendants WILLIAM CHESTER, dated December 31-74, and defendant Jerome Haskell dated January 6-75 and the undated motion of defendant Michael Gardner received by the U.S. Attorney's office on January 7-75, each seeking dismissal of the indictment on the ground that the grand jury which returned the indictment was not lawfully impaneld at the time the indictment was returned.
5-20-75	N.RUBINSON- Defts bail limits pending appeal extended to Miami,Fla. and Motley,J.
5-21-75	S. STEIN- Filed Affidavit of Frank H. Wohl (AUS), dated 5-21-75.
5-22-75	W.CHESTER - Filed memo endorsed on request for court assignment of appeal atty. with memo endorsed....The foregoing motion denied...Motley,J.
5-22-75	W.CHESTER - Filed memo endorsed on motion to strike jury verdict...The foregoing motion denied.....Motley,J.
5-23-75	EDGAR M.REYNOLDS- Filed notice of appeal from judgmt.of 5-15-75 copy given to U.S. Atty. and Mailed to defts atty.McCoyd & Keegan 1000 Franklin Ave. Garden City, N.Y.******The Court finds deft is indigent ***Mr.Keegan is ordered to continue to represent him until relieved by the Court of Appeals. Permission is granted for deft to proceed in forma pauperis ....Motley,J.
5-23-75	WILLIAM K. CHESTER - Filed notice of appeal from final judgment entered May 15-75 copy sent to AUSA and mailed to deft 955 N.E. 80th St. Miami,Fla.33138
5-29-75	Filed consent order that the clerk transmit four sealed envelopes** to the U.S.C.A. and placed in the cashier's vault upon their return.....Motley,J.

— See over —

DATE	PROCEEDINGS #75,486
5-29-75	LAWRENCE LEVINE - Filed Judgment(Atty.Thomas Andrews,present)The deft is sentenced to EIGHTEEN MONTHS Imprisonment..Execution of sentence is suspended..Deft.is placed on Probation for a period of TWO YEARS, subject to the standing probation order of this Court, and deft is fined $10,000.00 to be paid within THIRTY DAYS of this Judgment...Deft. is to stand committed until the fine is paid or deft. is otherwise discharged according to law....Motley, J....Ent.5-29-75------
6-5-75	LAWRENCE LEVINE - Filed notice of appeal from judgment of May 29-75 /copy mailed to U.S.Atty. by defts atty.
6-9-75	SIDNEY STEIN -Filed affdvt.of Frank H.Wohl,AUSA in support of a writ..Ret.forthwith.
6-18-75	E.REYNOLDS - Filed memo endorsed on unsigned order...The proposed order***is denied. Motley, J.....m/n
6-19-75	L.LEVINE - Filed affdvt. & notice of motion for order pursuant to Rule 38(3)and(4) staying pending determination of appeal the order of May 29-75..
Jun 19-75	Filed Memorandum of law in support of post-trial motions of defts. Rubinson & Levine.
Jun 19-75	Filed Government's memorandum of law in opposition to post-trial motions.
Jun 19-75	Filed Government's memorandum of law in opposition to motions.
Jun 19-75	Filed Government's affidavit in opposition to deft. Levine's motion.
Jun 19-75	Filed affdvt. in opposition to post-trial motion of deft. Rubinson.
Jun 19-75	Filed deft. Feiffer's notice of motion for judgment of acquittal.
Jun 19-75	FEIFFER: Memorandum of law in support of motion to dismiss,
Jun 19-75	FEIFFER: Affidavit of Albert Feiffer re: compensation to counsel.
Jun 19-75	WAY-LEVINE: Requests to charge.
6-20-75	NORMAN RUBINSON -,Filed the following papers received from Mag.Raby: Docket entry sheet Appearance Bond
6-23-75	L.LEVINE & N. RUBINSON - Filed designation of exhibits by stip.
6-23-75	L.LEVINE & N. RUBINSON - Filed stip.to forward supplemental record.
6-23-75	N.rRUBINSON - Filed notice that the original record on appeal has been certified and transmitted to the U.S.C.A.
6-30-75	PHILIP KAYE... deft's affdvt. and notice of motion for reduction of sentence pursuant to F.R.C.P. 35
7-1-75	LAWRENCE LEVINE... affdvt. of John J. Grimes and notice of motion for an order pursuant to Rule 38 (3) and (4) FRCP, directing the Clerk of the Court to return a check in the amount of $ 10,000., deposited with the Clerk, to LAWRENCE LEVINE.